

[The board of inquiry was called to order at 1351, 15 April 2021.]

SMBR (b)(6), (b)(7)c : The board will come to order. All persons who were present when the board recessed initially are present.

The reporter will note the time and date for the record. The recorder may present the government's case.

REC: Sir, the date is April 15th, 2021. And the time is 1351.

And, sir, I will get -- the government calls Ms. Lauren Bergey. and I will contact her via the courtroom audio, provided that I can make sure it works.

And actually, gentlemen, I did forget. We looked into the -- the questions that -- that you had. I have the clerks -- I confirmed that we don't have that -- that gate -- that gate dap [sic] -- date gap in the -- the files that we have. But we have our clerks contacting the S-1 to see if they can -- can locate it, as well as an updated master brief sheet. And then in terms of the response, counsel for respondent and I both confirm that there was an e-mail in there that, basically, said that counsel advised Captain Bergey not to make a response.

I -- looking at, I didn't want to put it in there because I don't want to get close to commenting on, you know, anybody's rights. But counsel for respondent and I both reviewed it, and that was pretty much what it said.

SMBR (b)(6) : But it's -- it's not in here, right?

REC: Right, it's not in there.

If you want it in, we can put it in.

CFR: Is it not one of the exhibits? Yeah, we'll -- we'll -- I'll put it in as one of my exhibit, sir. Next break, I'll print it out and put it in as -- as a respondent exhibit.

REC: Okay.

SMBR (b)(6), (b)(7)c Okay.

REC: That solves the problem, sir.

SMBR (b)(6), (b)(7)c): Okay. Copy, thanks.

WIT: Hello.

REC: Hello. Is this Lauren Bergey?

WIT: Yes.

REC: How are you?

WIT: I'm good, thank you. How are you?

REC: Good. This is (b)(6), (b)(7)c I'm calling from the courtroom so you are on -- on speakerphone in the board of inquiry in the case of Captain Michael Bergey.

Are you in a place where you can testify?

WIT: Yes, sir.

REC: Okay.

LAUREN M. BERGEY, a civilian, was called as a witness for the prosecution, was sworn, and testified telephonically as follows:

DIRECT EXAMINATION

Questions by the recorder:

Q. Can you state your full name and spell your last for the record.

A. Lauren Michelle Bergey, B-E-R-G-E-Y.

Q. Okay. Where is -- city and state of residence, please.

A. (b)(6), (b)(7)c

Q. Okay. Thank you. Now, just for -- for background, how do you know Captain Michael Bergey?

A. He is my former husband.

Q. Okay. When did you get married?

A. August 10, 2012.

Q. Okay. How long did you know him before that?

A. About a year and a half, two -- two years.

Q. Okay. Where -- where did you reside before Captain Bergey was activated?

A. Newport Beach, California.

Q. Okay. Can you describe for the members what sparked him to, basically, go accept active orders.

A. At the time, we had two children together and he was in between careers and jobs and we found out we were pregnant with twins. And when he was offered the position, it was supposed to be a temporary 9 month position. I had just gotten my real estate license so he was going to take the 9 month activation and I was going to work on my real estate career.

But when he got offered the longer term and found out we were pregnant with two other children, we decided that the best decision for our growing family would be to move out here --

Q. Okay.

A. -- to Louisiana.

Q. Okay. And in -- in that time, can you describe what -- what the Marine Corps meant to him? Was it -- was it an important part of his life, important part of his identity?

A. It was. He always wanted to be a Marine. And I know he wanted to be active duty when he was going through all of the training, but because of all of the -- the -- the state of the economy and everything, the position that he wanted was not available for him. So he did take a lot of pride in his position with the Marine Corps. And his -- he has multiple family members that were former Marines as well.

Q. And that -- does that include his father?

A. Yes.

Q. Okay.

A. He's more Army, but he did serve in the Marines as well.

Q. Okay.

A. And his -- his late brother was a Marine.

Q. And then you -- do you have a -- a positive impression of -- of his father?

A. I do. I do. I would say overall, I definitely do. He's -- he's always been very supportive. He does have opinions on things, but my overall impression of his father is positive.

Q. Thank you. Now, I want to talk about -- so you move out here --

A. [Nonverbal response.]

Q. -- and then your relationship heads towards divorce. Can

you just describe for the members what was going on in Captain Bergey's life at that time and any relationship that ultimately led to the separation and divorce?

A. In my opinion, I don't know if it was just too much pressure for him being active duty. I -- I don't, you know, in my opinion, he changed drastically when he became an active duty member. He was drinking a lot and taking multiple different medications to control his mental state, whether it be Adderall or Xanax or whatever it was, he would come home from work and just seemed very overwhelmed and distant from the family; was drinking a lot.

I mean, we just bought a new house, there was a lot of pressures in life and I feel like he just sort of drifted toward coping with those pressures in negative ways. And with 2 new babies and 3 children under 3 of the 4 kids that we had together, I think it just became too much for him. And he started to really lose sight of himself. And it became an issue where I just couldn't handle him not being present mentally or physically anymore. He was just sort of checked out and the issues became too much for me to deal with -- or want to deal with.

Q. Okay. So you mentioned that he was drinking a lot and he was --

A. [Nonverbal response.]

Q. -- you know, using other prescription medications to -- to try to, I guess, balance himself out.

A. Correct.

Q. And in that moment, because obviously taking prescription medications isn't, you know, against the law, did you feel like he had taken it to the point where it was misuse or abuse or --

A. Yes. Yes, he may have had the prescriptions for those medications, but he was taking more than prescribed.

Q. Okay. Would you characterize that as him having a -- a substance abuse problem?

A. Yes.

CFR: I'm going to object. Objection, your -- objection, sir, excuse me. Just for the record, the notification that he was provided alleging allegations was not 112a, it was not misuse of any types of drugs, and is improper, irrelevant questions.

REC: And, sir, may I respond? So Captain Bergey has been notified of substandard performance, which includes substance abuse counseling failure. I'm basically setting the stage for that and trying to paint a picture of what was going on in his life. If anything, this is slightly on the mitigating side to the extent that it shows that he was kind of on -- not in a good place.

SMBR (b)(6) : Yeah. So with the amount of times that substance abuse and the amount of witnesses that say under the influence of alcohol or drugs, I -- I think this is pertinent to the case.

CFR: Yes, sir.

Questions by the recorder (continued):

Q. So, ma'am, can -- can you just elaborate on -- on my

previous question, sorry.

A. Yes, I believe it was taken to an extent where he was taking more than the prescribed amount of medications, as well as the amount of alcohol he was consuming. Would -- he would stay up until all hours of the night, until 4:00 in the morning, 3:00 in the morning, whatever it would be, and then he would usually take some sort of upper to get him through the day and then come home and take the downer. In my opinion, he was not mentally stable.

Q. Okay. And then when did you decide to -- to end the marriage?

A. I had just had enough. My mother was in town visiting and he sort of went over the edge in front of her. He was working it -- on improvements in the house. And it was really late at night and we had asked him multiple times to stop. Mind, you, I still had infant twins at home that would be continually woken up. And I -- he mouthed off to my mom and myself, my mom was sleeping on the sofa in the living room, and he said he was going to leave. I had asked him to leave the -- the house at that point. And I just had had enough so that Sunday I went and met with an attorney to see what my options were and I ended up filing for divorce on the 12th of August.

Q. What was his reaction when he found out that you saw a divorce attorney? I'm talking in particularly the incident with his dad.

A. Yeah. He -- so his dad came into town. My mom had called his dad and said this is pretty extreme, I think you need to come out

here and help with the situation so his dad did fly in as well. I had told his dad, prior to telling Michael, that I had had enough and I was meeting with an attorney. And his dad told -- then told Michael. Michael got upset, was just kind of, like, thrashing his body around and his dad tried to stop him from coming and told him to -- to refrain from yelling. And his dad put his arm around Michael and brought him down to his knees to refrain him from whatever actions he was going to have after that point.

Q. Okay. So after -- in handling the divorce, it -- it clearly hit him hard, right?

A. Yes.

Q. Okay. Now I want to talk to you about just some of the instances that are really the -- the cause for this -- this board of inquiry.

A. [Nonverbal response.]

Q. So the first thing I want to talk about is the divorce petition and --

A. [Nonverbal response.]

Q. -- the temporary restraining order in August of 2019.

A. Yes.

Q. Can you just explain to the -- the members what happened there?

A. Well, at the time when I petition for the divorce because of Michael's rash behavior, I did file for a -- a temporary restraining order, more or less in the -- in the divorce petition so that, under

my understanding, was supposed to be held as a true -- if I had the true copy of the divorce order that was signed by the judge, that would hold true until we had our hearing. And our hearing had continued twice -- it had been continued to a later date twice. So as long as I was told that as long as I had the true copy signed by the judge and I had paid for three extra copies to have one in my vehicle, at a neighbor's house, and as well as my house in case he did come. I guess what had happened was he wasn't put in the registry so when they came to the house, it wasn't an instant look up. But after verification, the sheriff had told me that it was a valid restraining order as long as I had the true copy until our hearing was to be heard.

Q. Okay. And is -- is he facing charges out in town in relation to that incident?

A. Yes.

Q. He is.

A. June 21st, we have a criminal trial for the state of Louisiana versus him on breaking the protective order.

Q. Okay. And that was in relation to the 16 to 17 September incident?

A. Correct.

Q. Okay.

A. Correct.

Q. Now, can you tell the members what happened on the night of 16 to 17 September?

A. Yes, I can. I was home and in bed, it was late at night and my dog sleeping on the floor next to me. At the time we were remodeling our bathroom, our master bathroom, we had a mold problem. And the window that was in the room where the toilet is wouldn't shut all the way because we had renovated the toilet bowl -- toilet through the window so the frame was bent so I couldn't lock that window.

And he came in through the bathroom window and started -- he seemed very upset. He wanted to try to have -- he wanted to try to come to an agreement, have me sign a paper that stated that we were going to just end this and be done, like, amicably. As far as my recollection, I was not going to sign any papers. And he had refused to get out of the house, tried talking to me. I kept asking him to leave. Please leave. Please leave. Like the kids are sleeping in the room next door.

Eventually, he did leave out the laundry room door, but he came back a couple hours later and seemed in a more aggressive state. He said he wanted to -- he just wanted to hug me. He thought that I needed to hug him and he was going to sleep in his bed, in his house. And that I wasn't going to kick him out of his house. He then, like, threw his body into the bed where I was sleeping. And I jumped out immediately. His, you know, his voice was louder and more aggressive the second time he came back.

I don't know what happened in between the two periods. I don't know where he went, but he did come back that same night and finally left about 430 in the morning. I tried to get some rest and I called

the sheriffs the next morning. And when they arrived, they looked over the -- the order from the court and followed through with where he was living and placed him under arrest for breaking the protective order.

Q. Okay. Now, in -- in that moment, you know, when he came through your window, were -- were you afraid at all?

A. I was terrified.

Q. Okay.

A. And I couldn't see the bathroom window. I didn't know who it was, but either way, it was because of his actions and his -- his demeanor through this whole process of filing for divorce. He just grew more and more aggressive so I had no idea what his intentions were. I was afraid to pick up my phone and call the police, I didn't know what he would do while he was there. So I did call them the next morning.

Q. Okay. Did -- in that moment, did he seem, you know, obviously, you've known him for awhile and you were married to him for a number of years, did he seem like the -- the same person or did he seem, I guess, stressed out or was he acting differently than he would typically act?

A. He -- he was very, as I said, very aggressive and very just -- I don't know if when he became an officer in the Marine Corps, he -- he sort of became more controlling, maybe had a hard time separating work and home life, but significantly different than on a regular basis. Yes, he was very aggravated and hostile, and -- but

his emotions would change from being upset to being like -- like physically upset and -- and wanting sympathy to then very aggressive and I didn't know -- I couldn't gauge really what was -- truly what he was really, truly feeling.

Q. Okay.

A. But it was not -- he -- he didn't act like that on a normal basis everyday, but once I had filed for divorce, that became more of a prominent mannerism for him.

Q. Now, on September 17th, was -- was he arrested that day?

A. Yes.

Q. Okay. And then you -- you already said he's currently facing charges out in town, right?

A. Yes.

Q. Okay. Now, on September 25th, just a few days later, tell me about the -- the fire pit.

A. I don't know what had happened. I had left the house and when I came home, it was smoking and smoldering and there were -- everything had been burned. There was a bottle of Jack Daniels and there was numerous papers, I didn't know what they were. But I was not at home at the time so I had called -- the sheriff's department had told me that if anything seemed awry to call them. There are multiple incidences that I did call in fear that he was on the property when I was or wasn't home. But we had a - a fire pit in our backyard and it had been burning and it was still burning when I got home.

I didn't have proof that it was Michael. I don't have concrete proof of that, but someone was seen in my backyard by my grandmother. She can't -- she's old. She was living at me -- with me at the time and she has dementia so she's not really an accurate witness to that particular incident. But I did call the sheriffs and they did come out, but there wasn't really anything to report. But someone had been in the backyard. We live on a cul-de-sac with five houses and there's like an acre between each house so at the time, I did not have security cameras set up either.

Q. Okay.

A. But that prompted me to get them.

Q. And then the following day, did you receive flowers?

A. I did.

Q. Okay.

A. I did on a couple occasions. So, again, I called them out. I didn't know -- and at the time, I knew I had been being stalked in some way or another. I didn't know where it was from so I was very apprehensive to bring them in the house. After they traced down who they had come from, there were two separate occasions so I'm not sure which one you're referring to. But one of them was -- they were purchased by Michael and the others were brought over by (b)(6), (b)(7)c

Q. All right. So the ones that were brought over by -- what -- what did you say his name was? (b)(6), (b)(7)c_

A. (b)(6), (b)(7)c

Q. Okay. (b)(6), (b)(7)c So those -- those were apart and

separate from Captain Bergey?

A. He said they were for -- from Captain Bergey.

Q. Okay.

A. Yeah.

Q. But Captain Bergey himself didn't send those -- those particular ones?

A. I don't know if he purchased them. I don't know if (b)(6), (b)(7)c purchased them, but he -- he delivered them.

Q. Okay. That makes sense.

A. The second incident, they were traced back that Michael purchased the second flowers when, again, breaking the protective order. He was arrested on those charges as well.

Q. Okay. Now, how -- you said traced back, did you --

A. The sheriff's department went to the flower shop that the flowers were delivered from and requested video surveillance, and then did confirm that it was Michael Bergey's --

Q. Okay.

A. -- card and himself on the video. And went and arrested him for the second time.

Q. Okay.

A. At the time, like I said, I didn't know how I was being tracked or surveillanced [sic], but he knew a lot of things that I don't know how he found out about. So I didn't want anything coming to my house from anybody on the outside, really. I didn't -- I was being tracked. I was being stalked by multiple people, including

(b)(6), (b)(7)c .

Q. So actually, I do want to stop you there. So I -- I do want to talk about the -- the stalking. Tell me how you first came to the opinion that you were being stalked.

A. I -- there were a couple of occasions, but the one that really stuck out was when I had planned to go to a friend's for a fish fry, a very specific dinner, more or less. And I had -- he had said that he knew I was going to a fish fry at my friend Amy's house at 401 Briar Grove, I believe that's in some of my police reports. And when I was leaving, I had seen (b)(6), (b)(7)c truck stop at the stop sign, look at me, and then pass, go around the cul-de-sac, and pass back again.

So I -- I parked my car. The husbands of my friends got out and walked the block to make sure everything was safe and I stayed there for the remainder of the evening -- or most of the evening, feeling unsafe to go back home. So I called -- my attorney had recommended -- my attorney at the time had recommended I get a private investigator to see if my phone was tapped or the car was -- had a tracking device or whatever it was on it.

Michael had given numerous threats to -- he was going to show up at my location and I couldn't figure out how he knew where I was so I did go to the private investigator in Westwego. They were conducting an investigation on my car to look for tracked devices and whatnot while my phone was being ran through as well. I was with my aunt at the time and (b)(6), (b)(7)c drove past my vehicle, stopped, took

pictures and kept circling around so the police were called.

I did file a report for stalking. They let him go, but he had claimed that he was just down in the area. But when you live in Slidell, Westwego is quite a drive to just be in the area for. So there have been multiple occasions of different people finding me at very specific locations for very specific details. We've then discovered it was the OnStar in the vehicle that I was driving at the time.

Q. Okay. Now I'll -- I'll get back to the OnStar. Who is -- I'm going to butcher his last name. Who is (b)(6), (b)(7)c

A.

(b)(6), (b)(7)c

Q.

A. He is our former neighbor.

Q. Okay.

A. They moved in about a year after we moved in.

Q. Okay. Now, how --

A. And -- go ahead.

Q. How did you find out about the OnStar?

A. When they were conducting the original investigation on the car, they had found -- they told me to call OnStar and that he was able to access those records because he was the owner of the vehicle. So I told them to disable the OnStar. I didn't want it under any circumstances reopened. I guess because Michael is the owner --

Q. Ma'am?

A. -- he called back.

REC: Ma'am, wait -- wait one second. They're just having some -- the court reporters are having some technical diff -- difficulties.

WIT: Okay.

REC: Just one second. Sorry.

WIT: It's okay.

REC: Ma'am, thank you for baring with us.

WIT: That's okay.

REC: Sir, do you want to take a brief recess? I can -- and then I can call Ms. Bergey again.

Ma'am, we will -- we're going to rely on our secondary devices, so I'll -- I'll be able to continue.

WIT: Okay.

Questions by the recorder (continued):

Q. So in terms of the -- you were talking about your conversation with -- with OnStar. And I think you left off where you -- you said that you told them to cancel the OnStar.

A. Yeah.

Q. Okay.

A. And that I didn't want it at all on the vehicle.

Q. Okay. Did -- did they take the OnStar off of the car?

A. They didn't take the actual computer of OnStar off they just disconnected the service.

Q. Okay. And then did the service get reactivated at any point?

A. Yes, it did.

Q. Okay. By whom?

A. Michael.

Q. How do you know --

A. Captain Bergey.

Q. How do you know that?

A. My neighbor (b)(6) was the one that told me that he had called her and told her he reactivated it and she told me because she thought that it was wrong and immoral to be -- to be tracking me. And she said, I just wanted you to know that he's still tracking you through OnStar.

Q. Now slight detail in there, right, is that the car was in Captain Bergey's name, right?

A. Correct.

Q. And the OnStar was in Captain Bergey's name, right?

A. Well, correct because it was attached to the vehicle.

Q. Okay. Was that what allowed him to reactivate?

A. Yes.

Q. Okay. Now I want to talk about kind of building on that. When was the last time that you had someone report back your location to Captain Bergey? Or not, that you did; that you -- that you found out about?

A. Just recently -- just recently on the 18th of March.

Q. Okay.

A. I went out to dinner with my fiancée and I ran into

(b)(6), (b)(7)c and his wife and daughter at the restaurant, Gallagher's. I was sitting outside -- cold -- it was a cold night so I was sitting on a bench and they -- I was next to (b)(6) and they had thought that I was upset and crying, but I was just cold. I was sitting under his arms waiting for a ride. And we had a -- a brief conversation, they asked how the children were doing, told me that they still wanted to have the children over to swim at their plantation pool and ride the horses and all of that. Everything seemed completely normal. I said it was nice to see you guys, I hope all is well. And then the next day, I got a -- our family wizard message from Michael stating that they had reported back to him that they'd seen me there and --

Q. What --

A. Yes. So it -- its still going on.

Q. What is "our family wizard?"

A. Our family wizard is our court appointed court monitored way of communication because we are incapable of having normal conversations. So it's -- it's like a e-mail text message you can upload documents. So whatever, anything you want.

Q. Now, you -- you said that -- that Captain Bergey sent you a message on that saying that someone reported back to him?

A. Correct.

Q. Okay. Did you take a screenshot of that message and send it to me?

A. Yes, I did.

Q. When did you do that?

A. Today.

Q. Okay. For that particular message, I don't know if you recall what it was, but it was with the message titled: Dinner-18 March or 18 MAR?

A. Correct.

Q. Okay. In that message, did he say, "I received information that the kids were not with you last night. I was told you were crying outside on the bench. You and (b)(6) were seen at the high end restaurant, Gallagher's in Slidell. Dot, dot, dot. Where were our children? Who was watching them? Did you leave them home alone again? What's going on? Are you all right? I'm worried about our children."

A. Yes, correct.

Q. Has he sent you any other messages that seem to be concerning in terms of him tracking you or keeping track of you?

A. Yes, multiple.

Q. Did you sent -- did you send me, this morning, another screenshot of a message in which -- or I guess another screenshot of a message?

A. Yes.

Q. Okay. Was it the message Kids-FaceTime #5? Was it that message?

A. Correct.

Q. And that was from March 19?

A. Yes.

Q. Okay. In that message, did he say, "This is crazy. Dot, dot, dot. What do you expect a father to do? One, four beautiful children in distress; two, (b)(6), (b)(7)c first boyfriend; three, (b)(6), (b)(7)c (swinger's club with first boyfriend leaving the kids unsupervised); four, jail for me because kids want their father, father wants their kids; five, live in boyfriend moves in 4 days after meeting him; six, house for short sale; seven, cheat on your live-in-boyfriend with boyfriend (b)(6), (b)(7)c number one at hotel again-1; eight, our son prank calls boyfriend number one; nine, your family disowns you; ten, you've costed close to \$100,000 with your lies; eleven, USMC wise, you've costed the U.S. government close to 500K with your lies."

Was that what he sent you?

A. Yes.

Q. Okay. Now I want to talk about the -- the next instant, the incident at The Wine Market. Where were you working in -- on November 22nd, 2019?

A. I was working at The Wine Market on Gause Boulevard in Slidell.

Q. When did you start working there?

A. Just a few days prior, I was still in training.

Q. Okay. Did you work on November 22nd of that year?

A. Yes, I was in -- yes, I was in training so I came in to help on Thursdays, they do a steak night, and it gets really busy. So I came in and I tended bar through the rush and then they let me go

early.

Q. Okay. What did you do after work?

A. I went to dinner with (b)(6), (b)(7)c

Q. Okay. Who's (b)(6), (b)(7)c

A. is --

Q. (b)(6), (b)(7)c Sorry.

A. Yes. (b)(6), (b)(7)c is the first -- wasn't a boyfriend, but someone that I had been casually dating.

Q. Okay.

A. I left my vehicle there, which at the time I was taking my aunt's vehicle because of the OnStar tracking in my car, so I left my vehicle there and was picked up and dropped off back at the same location --

Q. Okay.

A. -- at The Wine Market.

Q. When you were dropped off, did you see anything of note?

A. When I got dropped off, I didn't see anything. I got out of the truck and into my aunt's vehicle. And when I drove out of the parking lot, I had seen a fight and I didn't know who they were. I thought it was bizarre because The Wine Market is not that kind of an establishment, it's a little bit older crowd, locals. So I thought it was bizarre that there was this altercation in the parking lot.

Q. And then what did you do after that?

A. I drove home and my neighbor, (b)(6), (b)(7)c called me and said, Are you still at work? Michael got into a fight -- or an altercation.

He saw you get out of the truck and he was running out when Staff Sergeant (b)(6), (b)(7)c and Staff Sergeant (b)(6), (b)(7)c had to take him down so that he wouldn't cause, I guess, an altercation.

Q. And when you got home, did you see (b)(6), (b)(7)c

A. Yes, I was -- she came over to the house. And then when she was leaving, I was standing in the door that enters our garage to the mudroom and we were talking there just right by the door and I heard boots running down or briskly walking down the driveway. So as soon as I saw that it was Captain Bergey, I slammed the door and locked it and went around to our backdoor and made sure that was locked as well.

I immediately called 911. They sent, I believe it was seven unit to the house. He did walk through the garage door that goes to our backyard and tried to open the patio door, but discovered it was locked and ended up going over to (b)(6), (b)(7)c home which is where the police found him in the backyard on the patio. There was no arrest made because at the time there was no active protective order in place.

Q. And the patio door is that pretty much ground to ceiling glass?

A. Glass, yes.

Q. Okay. So you could clearly see him through the window?

A. Yes.

Q. Okay. And he tried to open the door?

A. Yeah.

Q. Okay. And then what happened after the police arrived?

A. Staff Sergeant (b)(6), (b)(7)c and Staff Sergeant (b)(6), (b)(7)c were over at our neighbor's house because Michael had taken Staff Sergeant (b)(6), (b)(7)c cell phone and used his Uber account on his -- his phone to take an Uber from The Wine Market to our residence on [inaudible] Lane. So they went back to receive the phone from him. So everyone was over there. There was a sheriff with me at my residence and multiple sheriffs over at the neighbor's residence. As I said, they were unable to arrest him because there was no active protective order in place. They told him to leave the premises and not to come back.

Q. Okay. In that moment, were you afraid?

A. I was terrified when he came running out that door, that he was just going to -- we have sleek tile floors and I was afraid I was going to go down.

Q. Now, I want to --

A. But I managed to lock the door.

Q. Okay. Now I want to talk about his living arrangement.

A. Yes.

Q. So when -- when he moved out of the house, where did he move to?

A. He first moved to (b)(6), (b)(7)c property that had a few different living arrangements on it. He lived in a small little cabin over there for awhile. But they use it as an AirBNB so he ended up moving into Staff Sergeant (b)(6), (b)(7)c home that she owned as a second property; but at the time, Staff Sergeant (b)(6), (b)(7)c was living there as

well. So Michael moved in with Staff Sergeant (b)(6), (b)(7)c into (b)(6), (b)(7)c house.

Q. Now, had you -- had you met Staff Sergeant (b)(6), (b)(7)c before then?

A. Yes.

Q. Okay. How -- in what context?

A. Both of them had been to our house multiple times. Some of it seemed like a little bit work related, I wasn't really in those conversations. But then we, you know, all of us, myself included, became friends with them and their children. Both of them were friends with our children. So Staff Sergeant (b)(6), (b)(7)c didn't have his children all the time because they live in a different state, but when he did have them, we would get together and do family outings, events barbecues, crawfish boils, just like, you know, watch the football games, very casual.

Q. Okay. Now, when he was over at -- at your house or when they were hanging out together, what did Staff Sergeant (b)(6), (b)(7)c call Captain Bergey?

A. In the beginning, they were formal and did call him "sir," but eventually they just called him Bergey or Michael or just much more informal.

Q. Did -- did it appear as if they were -- were friends?

A. Yes.

Q. Okay. Did it appear as if Captain Bergey was treating Staff Sergeant (b)(6), (b)(7)c on equal footing?

A. Yes.

Q. Okay. Now, one of the issues raised in the opening statement was the -- I guess there was -- there was some discussion of like Louisiana law with respected temporary restraining orders. Now, can you just walk the members through when you first got that temporary restraining order on August 12th or August 13th rather, what -- what did -- what -- what happened there? What was the expectation in terms of what was going to happen next? What was the next step in that process?

A. We were supposed to -- when you go in with a -- a temporary restraining order, an order for protection, I believe it's civil code 3945, they are supposed to grant you a hearing within 10 days to be considered like an emergency situation with the court. But we were -- our -- my understanding is that our hearing was continued on multiple different occasions to a later date. But my -- also my understanding was that if I had that true copy signed and notarized with the raised seal from the judge and I had that copy on me at all times, it would still be in full effect until our hearing to provide the -- the more permanent --

Q. Okay. Who told -- who told you that?

A. -- order. My attorney, as well as the sheriff's department. After they clarified with the courts, they had also told me always keep that on you because it does serve as a protective order.

Q. Okay. And then what was your actual hearing?

A. I believe it was October 1st.

Q. Okay. Now, did you provide me copies of an order dated, let's see, September 19, 2019 from -- looks like the judge was (b)(6), (b)(7)c [ph]?

A. Yes.

Q. Okay. And in that order, did you receive temporary sole custody of the children?

A. Yes.

Q. Okay. Did Captain Bergey receive any visitation rights?

A. Supervised.

Q. Okay. Was there a -- it looks like the last sentence in here that was -- was that same document where they said, "Pursuant to the provisions of CCP Article 3945, being the same is here -- hereby continued in full force and effect pending the next hearing officer date referenced immediately here and after of by consent." And that is a clunky statement. But is that -- is that the -- the same document you gave me?

A. Yes.

Q. Okay. And then did you also provide me with an order, the original order from August 12th, 2019?

A. Yes, I did.

Q. Okay. And that's the -- the order in which it -- it indicates that there would be a temporary restraining order?

A. Yes.

Q. And in that document, it didn't reference any limitation in terms of time?

A. No.

Q. Okay. Did that document initially set the hearing date for 6 September 2019? Is that the original?

A. I believe so.

Q. Okay. Yeah. If you don't remember, that's fine.

A. I'm sorry. Lots of documents but yes, I believe that's the document that dated for the 6th of September.

Q. Okay. And you sent me both of those, like what, like, noon this -- today?

A. Yes, sir.

Q. Okay. Did you also provide me with an affidavit from Jeanne -- I can't say this person name.

A. (b)(6), (b)(7)c

Q. Yes, I can't say this person's last name.

A. Yes.

Q. You did provide me with an affidavit? Where is that affidavit from?

A. That's from my attorney's office as well. The day that I filed for the divorce, she was with me and she gave her statement --

Q. Okay.

A. -- that day.

Q. Okay. And was --

A. It's from the court. Sorry. The -- the court provided me with that copy of that as well.

Q. And that's -- that's the statement that she signed and

notarized?

A. Correct.

Q. Okay. Now I want to talk to you about the -- in the defense -- the counsel for respondent's opening, he indicated that he may call certain witnesses. So in the interest of just, you know, economy, I wanted to just ask you who those people are just so that way the members can get a -- a general idea.

So start -- starting first with (b)(6), (b)(7)c who is that?

A. They were the house we rented when we first moved here and where Michael lived after the divorce.

Q. Okay. And was that the same person that you saw on -- on March 18th and reported back when you received the --

A. Yes.

Q. -- you received the wizard message from him, from Captain Bergey?

A. Yes. Also -- correct. Also, the same person that followed me in his truck to my friend's house for the fish fry.

Q. Okay. And then during that fish fry, you -- you said you -- you went to your friend's house. Did you stay the night?

A. You know, I -- I don't remember the entirety of the night, but I did stay for quite awhile; left either very early that morning or late night. I was too afraid to go back home.

Q. Were any of your kids with you?

A. (b)(6), (b)(7)c

Q. (b)(6), (b)(7)c was with you. Is he your oldest?

A. Yeah. Yeah.

Q. Okay. Now I want to talk about, let me see, did -- did anyone associated with (b)(6), (b)(7)c send you any text messages pretending to be someone that they weren't?

A. Yes.

Q. What did they say?

A. His --

Q. Who was it?

A. It was one of -- it's his wife's first son. So it's not actually his birth son, it's his stepson. His name is (b)(6), (b)(7)c [ph].

Q. And what did he send you?

A. I -- I don't have the copy of the message. I apologize, but it in one way or another, a message stating that he was a -- a fellow Marine of Michael's that worked in his unit and that I needed, basically more or less, I needed to keep this marriage together. We have all these kids together. It wasn't threatening, but it was very strange context to receive. It was a blocked number. I ended up paying to look up that number and it reported back to (b)(6), (b)(7)c who was (b)(6), (b)(7)c stepson. I apologize I don't have all the details of it, but it was -- it was a lengthy message about me breaking the family apart and how I shouldn't be doing this; filing for a divorce and how I should, you know, work to keep this marriage together, more or less.

Q. And then just -- just in case he -- he testifies, how did

you know that it was (b)(6), (b)(7)c truck?

A. He has a very distinct blue Toyota Tundra with a -- multiple dents and dings, but it also has a very distinct rack on the back of it, above the -- the truck -- I'm sorry, the bed of the truck that goes up and over the roof of the truck, it's like a metal frame. Multiple -- it's a work truck; multiple dings and dents, stickers, scrapes, it's a very distinct truck around town. It's a small town and, yeah.

Q. Now, you already talked about (b)(6), (b)(7)c --

A.

Q. (b)(6), (b)(7)c Just because I -- I think she might -- might talk about it. So she was there on the -- on the night of 22 November, right?

A. Yes.

Q. Okay. She witnessed a lot of the altercations between you and Captain Bergey?

A. Correct.

Q. Okay. She was the one that told you that the person in the parking lot of The Wine Market was Captain Bergey, right?

A. Correct.

Q. Okay. And when -- I'm going to talk about when you went to Cabo for your brother's birthday --

A. Wedding.

Q. Sorry, wedding. So did -- what -- what did you do with the kids that weekend?

A. They were in -- I'm sorry. Give me one second. They were in the car -- the care of my aunt and uncle and (b)(6), (b)(7)c both. They were to stay at my house. I'm -- I'm sorry, my kids -- my kids are -- I'm sorry, hold on one quick second.

Q. It's okay.

A. I'm sorry. Anyway, it was a 4 day trip where we weren't going to end up going to the wedding because it just was too much with the kids and everything, but they had sat down with me and said between us four adults, we will take care of the kids. You need to go to your brother's wedding.

I was sitting at their house on the back patio with my aunt's husband and (b)(6), (b)(7)c and they said, We got it under control, go to the wedding. My aunt fell ill. Michael ended up flying out here on Monday; we were coming home Tuesday morning. Probably more information than needed, but he stayed at our house against my will and he was originally supposed to take the children for that weekend. He said he couldn't afford to fly out here and stay with them. So they were in the care of (b)(6), (b)(7)c and my aunt and her husband.

Q. Okay. And now this aunt, is that (b)(6), (b)(7)c

A. Yes.

Q. Okay. Where was she living at the time?

A. At the time, she had left my house -- no, she was living -- I'm sorry. I'm confused. She was living at -- they had a rental house here in Slidell.

Q. Okay. But at some --

A. Prior to that, they were residing with me.

Q. Okay. That was -- that was my question: Did she ever live at your house? Why did she --

A. Yeah.

Q. Why did she move in your house?

A. At the time, they were in need of a place to live and I was by myself with fear of Captain Bergey's action so I had room for them to come and they helped me get through the beginning of all of this divorce. My -- I guess you could call him my uncle -- he was former Navy as well as former police officer so I felt very comfortable having him there in case anything were to happen because I was home alone with these four kids.

Q. Okay. And then, I think you indicated earlier, you drive your aunt's car, right?

A. I did from time to time when I knew that once I found out about the OnStar and the tracking, I would take her car so that I couldn't be followed at places such as work or whatever it would be.

Q. And what did you ultimately do with the Suburban that was -- had the OnStar?

A. I gave it back to Michael. I didn't want anything to do with it.

Q. Okay. Now -- so your aunt will, if she testifies, she will be testifying for the -- the defense. Can you just describe your relationship with your aunt, as of now?

A. She is my mom -- yes. She is my mom's only sister and I do

not communicate with her at all anymore.

Q. Okay. What happened?

A. Well, she's testifying against me in multiple occasions. She moved back to Colorado and I guess I just don't see the reason what she's going to gain from trying to hurt me and my children.

Q. Okay. Has she ever called -- made any reports against you, anything like that?

A. I don't know specifically because the Department of Child and Family Services or the Animal Control will not give out that information as to who did it, but I did have four different accounts on authorities being called on me and no reports were made because there was nothing to report on.

Q. Okay.

A. More so -- more like a welfare check.

Q. So somebody was making anonymous reports against you?

A. Yes. I don't know -- I don't have -- they won't give me the names of who reported.

Q. Okay. Now, when did -- when did that shift happen? When did she start testifying against you?

A. After the -- my brother's wedding in Cabo.

Q. Okay.

A. Everything just changed completely.

Q. Did she have any sort of -- anything that would make you question her credibility?

A. Yes, she is very unstable mentally. She has a history of

mental illness, depression, bipolar, multiple attempts of suicide.
Her son committed suicide 4 years ago.

Q. Has she ever been --

A. She's on multiple medications.

Q. Has she ever been admitted to a mental facility?

A. Yes.

CFR: Sir --

REC: Where?

WIT: Multiple -- on -- on separate occasions.

REC: Sor -- sorry, ma'am.

WIT: I know one of them was in --

CFR: Objection to relevance.

REC: Sorry, ma'am.

WIT: -- one was --

REC: One moment, counsel for respondent just objected to my question; but hold your thought, one second.

CFR: I object to relevance, sir.

SMBR (b)(6), (b)(7)c : So reason?

REC: So sir, really this is -- the counsel for the respondent indicated that she is going to be one of the defense witnesses. So we really have two options in cases like this. In a traditional court-martial, what we would do is we would wait for that person to take the stand and then we'd call in rebuttal. We'd call Ms. Bergey again in rebuttal. Since this is a BOI, the rules of evidence don't apply.

So I'm asking her these questions in anticipation that she is going to testify in order to, kind of, save us time for economy's sake because the other alternative is basically to wait until the end of the defense's case and then recall Ms. Bergey and go through all this again.

SMBR (b)(6), (b)(7)c Yeah. So -- go ahead.

CFR: I just had to say that's -- that is relevant. The idea that her son commits suicide is not relevant.

REC: Sir, and I -- I do agree about the son committing suicide not being relevant.

SMBR (b)(6), (b)(7)c Yeah. Yes, but what I -- what I think you're doing is establishing her credibility as a witness, a potential future witness.

REC: Yes, sir.

SMBR (b)(6), (b)(7)c I tend to think that that's important here, but I would ask that you do keep it to things that are more germane to what we're talking about.

REC: Yes, sir. My only other questions about her credibility was about the -- she's being checked into mental health facilities.

SMBR (b)(6), (b)(7)c How is -- is that relevant?

REC: Basically because of her -- her psychological state.

SMBR (b)(6), (b)(7)c You're discrediting her as a witness?

REC: Yes, sir.

SMBR (b)(6), (b)(7)c : Yeah, let's just move on.

REC: Move on?

SMBR (b)(6), (b)(7)c : Yes.

REC: Yes, sir.

All right. Now ma'am, just so that -- that way you're -- you're tracking, we're going to move on from -- from that issue.

WIT: Okay.

REC: And one moment, let me just take a quick look. All right. When -- one last set of questions, okay.

Questions by the recorder (continued):

Q. When Captain Bergey was moving out of the -- your house, basically getting -- getting his stuff, did -- did he come to the house or did Staff Sergeant (b)(6), (b)(7)c come to the house?

A. They were both there.

Q. Okay.

A. The first -- the first time she had come to pick up some of his belongings. He was not there.

Q. Okay. She go into his gun safe?

A. Yes, sir.

Q. What did you see in there?

A. A box of needles fell out of the gun safe and popped open.

Q. Okay.

A. Syringe needles.

Q. Was there ever anything, particularly in your bathroom that would give you an idea what that was?

A. Yes, Michael had a pouch of steroids, of vials of liquid steroids.

Q. Okay. And now, in terms of, just because I know that this came up in --

CFR: I'm going to object for the record. Again, this is not relevant. He was not notified of 112(a) and the fact that he's eliciting testimony about drug -- about steroid use, in which I -- sir, let me just put this on the record.

The information that I'm finding out during a board of inquiry, that's not proper. The way that we prepare for a case is we have witness testimony that comes -- that we're given a notice of. No notice was given that she was going to testify until yesterday evening.

Secondly, this afternoon, we get statements that she provided that was not privy to the respondent. So the line of questioning, especially line of questioning regarding -- hinting at illicit drug abuse is not proper. It's not proper testimony. He was not notified that in notification of separation.

SMBR (b)(6), (b)(7)c : Yeah. I -- I agree. You know, the -- I know you're trying to establish a -- a pattern of conduct in performance, but that brings up a whole another set of charges that I don't think we're prepared to stop this and go back and pull the trigger on.

REC: Understand, sir. That's fine. And, sir, I'll -- I'll just withdraw that that question.

SMBR Yes.

(b)(6), (b)(7)c
MBR2 : I do have a question. Lieutenant Colonel

(b)(6), (b)(7)c Just trying to understand when -- when you -- did you find out

about this yesterday too or, I mean, just for purposes of the board of inquiry, how -- if they just found out about this today and yesterday, when did you find out about it?

REC: About her testifying?

MBR2 (LtCol(b)(6), (b)(7)c: Whatever it is you're eliciting.

REC: So what I'm eliciting, I mean, we interviewed her a long time ago. Her contact information was provided to defense. That's typically how it's done.

MBR2 (LtCol(b)(6), (b)(7)c: Was there an opportun -- sorry for interrupting you. Was there an opportunity to include that for the defense to review that you were going to or planned to bring it to the board of inquiry?

REC: Well, sir, I -- I just interviewed her. And it's -- it's not one of the -- it's not one of the basis, but it does go to the sub-standard performance as well as retention/separation. And the counsel for the respondent had ample opportunity to interview her. I provided her contact information prior to this board.

She -- initially, I -- I told the counsel for respondent, I believe this was over e-mail, that if I called anyone at this board, it would be Ms. Bergey; but at the time, she did not intend to testify. I contacted her again yesterday to ask if, you know, she would reconsider after saying that it would be helpful to give context to the command investigation as well as some of the other -- the other allegations. She said that she would -- she'd be willing to and then as soon as that happened, then I notified Captain (b)(6), (b)(7)c that she was

definitely going to be testifying.

MBR2 (LtCol(b)(6), (b)(7)c : I guess my question -- the -- the purpose of my question is to understand when allegation of drug abuse were included. And at some point it's somebody's responsibility to include that here, not at 1352.

REC: Right. Sir, it's not -- it's not in the -- specifically in the notification so that is not one of the basis. It would be something to be considered for separation/retention. But I withdrew the question so you don't even have to consider it.

MBR2 (LtCol Rose): Understood, I'm just sensing this is not the appropriate forum or process, but --

REC: And, sir, I can -- I can call the legal advisor to just explain that, but I'll -- I mean, I'll just withdraw the question.

SMBR (b)(6), (b)(7)c : Yes. So, you know, your comment bring up another question.

So did the respondent, did you contact her knowing that she was a potential witness to ask her questions?

CFR: Sir, victims don't talk to defense counsels.

SMBR (b)(6), (b)(7)c : I'm sorry.

CFR: Victims don't talk to defense counsels. No, I did not -- no, I did not speak to her.

SMBR (b)(6), (b)(7)c : Victims don't talk to defense counsels.

CFR: She -- she's not going to talk to her husband's defense attorney.

SMBR (b)(6), (b)(7)c : Okay. But you didn't contact her.

CFR: That's correct, sir.

SMBR (b)(6), (b)(7)c Okay.

REC: And -- and sir, in the interest of fairness, if Captain (b)(6), (b)(7)c wants to take a break and have an opportunity that -- I'm completely for that.

SMBR (b)(6), (b)(7)c : She -- I guess my -- my biggest concern is the fact that we now have an allegation of potential illicit drug use. What do I do with it?

REC: So the only thing and -- and sir, I -- I withdrew the question, but the only thing you'd be able to consider that for would be retention/separation, not for basis.

SMBR (b)(6), (b)(7)c : Yeah. But is there a duty to report?

REC: Not -- not here, sir. We are presenting you as the members with -- with the evidence, as, you know, as it's laid out and that's -- that's really the extent of it.

MBR2 (LtCol(b)(6), (b)(7)c): Sir, this is Lieutenant Colonel (b)(6), (b)(7)c I just -- I recommend we take a break and consult with legal -- legal counsel based off of the line of questioning, the order process to include the defense counsel's answer to your question about whether or not he attempted to contact the current -- or the victim. I'm just recommending a break, sir, recess.

SMBR (b)(6), (b)(7)c : Yes, agreed.

REC: Yes, sir. And then, sir, I will let -- I'll end the call.

That was really the end of my questions. I'll end the call with Ms. Bergey and then when -- for cross-examination, we can call her

back.

SMBR (b)(6), (b)(7)c : Okay. So you're going to -- you're going to ask her questions?

CFR: Yes, sir, I will.

SMBR (b)(6), (b)(7)c : And then we're going to ask her questions?

REC: Yes, sir.

CFR: I'd rather just -- honestly, I'd rather just push for the cross right -- right now --

SMBR (b)(6), (b)(7)c No.

CFR: -- out of fear not we're not going to get in touch -- back in touch with her.

SMBR (b)(6), (b)(7)c : No we -- we have a -- I know I have at least a few questions for her.

Ms. Bergey, will you be available for subsequent conversation?

REC: Ma'am --

WIT: I'm sorry. I can't hear very well. I'm sorry.

REC: The senior member asked if you would be available later for subsequent conversations?

WIT: Yes.

REC: Yes. Okay.

SMBR (b)(6), (b)(7)c Okay. Yes. So let's -- let's figure it out so we can move forward with this.

REC: Yes, sir. Thank you. And then, ma'am, I will advise you, please do not discuss your testimony -- that was the conclusion of my direct. Please do not discuss your testimony with -- with anyone

outside of this board until the conclusion of the board.

WIT: Yes, sir.

REC: When we come back on, you'll still be under oath. So we -- we don't have to re-swear you, but we will contact you after consulting with the legal advisor in order to continue the -- the questioning. Thank you.

WIT: Okay.

REC: Thank you.

WIT: Thank you.

REC: Bye.

WIT: Bye.

[The witness was warned and the telephonic call was disconnected.]

[Lauren M. Bergey's testimony ended at 1455, 15 April 2021.]

[Lauren M. Bergey's testimony began at 1554, 15 April 2021.]

WIT: Hello.

REC: Good afternoon, ma'am. This is (b)(6), (b)(7)c You are again on speaker phone in the courtroom for the board of inquiry for Captain Bergey. Are you in a place where you --

WIT: Yes, sir.

REC: -- can talk?

WIT: Yes.

REC: Okay. When I left off, those were pretty much the -- the end of my questions. But we're going to go back on the record and then I'm going to allow the counsel for the respondent and the members to ask you further questions.

WIT: Yes, sir.

REC: Okay. I just want to -- I do want to remind you, though, you are still under oath.

WIT: Yes, sir.

REC: Okay. Thank you very much. And then, sir, we'll go back on the record.

SMBR (b)(6), (b)(7)c : I thought we were already on?

REC: Did we already read it on? Okay. Thank you.

SMBR (b)(6), (b)(7)c : 1539.

REC: Yes, sir. Ma'am, I'm going to turn it over to the counsel for the respondent.

WIT: Okay.

CFR: Good afternoon, Ms. Bergey.

WIT: Hello.

CFR: Can you hear me all right?

WIT: Yes, I can. Can you hear me okay?

CFR: I can, thank you.

My name is Captain (b)(6), (b)(7)c I'm the defense counsel for your former husband, Captain Michael Bergey.

SMBR (b)(6), (b)(7)c Mic. Mic.

WIT: Yes, sir.

LAUREN M. BERGEY, a civilian, was recalled telephonically as a witness for the defense counsel, was sworn, and testified as follows:

CROSS-EXAMINATION

Questions by the counsel for the respondent:

Q. I want to start talking about that night of 16 September 2019, do you recall that evening?

A. Yes, sir.

Q. And you recall providing a statement to the investigating officer?

A. I'm sorry, I didn't understand that.

Q. Do you recall providing a statement to Lieutenant Colonel (b)(6), (b)(7)c

A. Yes, sir.

Q. Okay. You remember making that statement, right?

A. Yes, sir.

Q. And after you made that statement, you were able to review that statement?

A. I hadn't spoken to him for awhile, but, yes, I was provided with it.

Q. And -- and you signed it, correct?

A. Yes, sir.

Q. You signed it on 5 February of 2020, does that sound right?

A. Yes, sir.

Q. Okay. I want to talk a little bit about that statement. You said -- and we're still talking about 16 September, what you said to Lieutenant Colonel (b)(6), (b)(7)c do you understand that?

A. Yes, sir.

Q. You -- you told him that on that night, you had called your neighbor -- you had called (b)(6), (b)(7)c correct?

A. Yes, sir.

Q. And -- and that's (b)(6), (b)(7)c -- where does she live in relation to you? How -- where's her house compared to you?

A. Directly across the cul-de-sac.

Q. Directly across. And you said that you called her because you were concerned about your well-being?

A. Yes.

Q. Okay. And this is already -- at this time, we're already -- roughly what time was it on 16 September?

A. I just -- I believe it was 11:30.

Q. It was 11:30. Okay. So he -- he --

A. When I -- well -- it's been almost 2 years. I don't -- I have other court cases going on so I don't have the exact time. Michael came into the house around 11:30.

Q. Okay. All right. And he came in around 11:30, but you knew he was coming over, correct?

A. No, he was told not to come over.

Q. You told him not to come over?

A. He was told not to come to the house.

Q. Okay.

A. He was not invited over.

Q. He was not invited over?

A. No.

Q. Didn't want to discuss a -- a -- anything regarding your children?

A. He wanted to discuss dropping the -- the -- he had hand written something that he wanted to deliver. I told him I wasn't going to sign anything. We could meet at the courthouse the next day.

Q. Okay. Yeah. I'm going to get that in a second. Thank you for mentioning that. So it's your testimony that you didn't want to agree to -- with a visitation schedule with him.

A. I -- I didn't -- we didn't have a visitation schedule at that time.

Q. Okay. You -- and -- so let's -- let's talk about earlier that evening. You recall talking to Jeanne earlier that evening, correct?

A. Sure.

Q. Is that a yes or that's a no?

A. Yes.

Q. Yes. And --

A. We spoke on the phone.

Q. And when you all spoke on the phone, your former husband, Michael, was over at her house, correct?

A. Yes.

Q. And -- and what they were doing is they were preparing a visitation schedule, correct?

A. That's what he had brought over to the house, but he was not invited to come over and bring the visitation schedule.

Q. Okay. So but -- but my question was, what you all discussed -- what you discussed with (b)(6), (b)(7)c, was the visitation

schedule?

A. Yes.

Q. And while you're discussing this with (b)(6), (b)(7)c your former husband, Michael Bergey, is drafting the -- the visitation schedule.

A. I wasn't there, but sure, yes.

Q. The reason for --

A. And I wasn't over at their house, I was at home.

Q. Right. I'm just trying to -- for the members to understand that -- the -- the situation here. Your former husband's over at (b)(6), (b)(7)c house, correct?

A. Yes.

Q. And you're talking to (b)(6), (b)(7)c about a visitation schedule?

No?

A. I honestly don't recall the exact details of the phone conversation that was made that night. I really don't.

Q. You don't recall?

A. No, sir.

Q. When you gave the statement to the investigating officer, Lieutenant Colonel (b)(6), (b)(7)c you never mentioned anything about a discussion regarding a visitation schedule, did you?

A. Again, I -- I'm not sure. I don't have it in front of me.

Q. You don't --

A. I didn't know I was going to be testifying today.

Q. You didn't know you were going to be testifying today?

A. Not until last minute, no, sir. A couple days ago,

yesterday.

Q. I'm going to -- I'm going to --

A. I said I didn't want to be testifying as a witness.

Q. So you told Captain (b)(6), (b)(7)(c) you told the government representative that you did not want to be testifying as a witness?

A. No, I did. I did tell him I wanted to yesterday, but originally I had not wanted to. Otherwise, I would have had all of these documents prepared so I would have them in front of me to recall what was exactly said.

Q. Okay. I'll -- I want to talk about why you had a change of heart, all right. And -- and you mentioned initially you didn't want to testify as a witness, but you said -- was it yesterday you changed your mind?

A. Yes.

Q. Okay. I want to talk about what you have coming up with your -- with your former husband. You have a -- a -- a custody trial, correct? A child custody trial?

A. Yes.

Q. And just Monday, you were presented evidence for that child custody trial, is that correct?

A. This Monday?

Q. This past Monday.

A. Which evidence?

Q. The evidence that is -- that will be leveled against you at this trial. Yes -- yes or no?

A. For this trial?

Q. For the trial for your child custody agreement. For your child custody trial.

A. Monday I wasn't -- I was given -- I was given nothing this Monday.

Q. What -- this week, was it this week you were given information regarding your -- your child custody trial?

A. That he has objected and we're -- I was told that he has objected to the hearing officer conference and we are going to trial April 26.

Q. Okay. And when were you told that information?

A. I believe it was Tuesday.

Q. On Tuesday, okay. And so you were told that this thing is going to trial and the issue of this trial is the custody of your children, correct?

A. On April 26, yes, correct.

Q. And on April 26, there will be a trial to decide whether or not your children get to move to California, correct?

A. Correct.

Q. And you were told that this trial was happening on Tuesday?

A. I -- I've known that this would be the date if he objected to the hearing officer report, which he did. So I've known that we have the trial coming up, yes.

Q. Okay. And so on Tuesday, you find out that it's going to trial and then yesterday you tell -- Wednesday you tell Captain(b)(6), (b)(7)c

Murrane that you want to testify, correct?

A. Yes.

Q. Let's talk about -- let's get back to 16 September and what you didn't tell to Lieutenant Colonel (b)(6), (b)(7)(c). The next morning you text Captain Bergey, correct?

A. Yes.

Q. At -- At 7 a.m. you text him?

A. Yes.

Q. And at 7 a.m., you texted him a question if you all were going to go meet at the courthouse?

A. Correct.

Q. And you never told that to Saint Tammany PD, Saint Tammany Sheriff's Office, did you?

A. No.

Q. When you filed that police report against Captain Bergey for violating a temporary restraining order, you never told them that you planned on going to the courthouse with him?

A. I -- I was scared that if I didn't agree to go to the courthouse with him, he was going to come back.

Q. Okay. So at 7 a.m., when you texted him, "Are we going to the courthouse," it's your testimony that you told him that because you were scared that he was going to come back to your house if you didn't text him that?

A. Yes.

Q. Let's talk about you -- you being terrified, all right, that

was your -- that was your testimony in direct examination. You told the government counsel that you were terrified when he was in your room, correct?

A. I was, yes.

Q. And you were so terrified that you couldn't call the police?

A. Correct.

Q. You were so terrified that you couldn't even text Jeanne. You couldn't even go for your pelt -- you couldn't even go for your phone, correct?

A. Correct.

Q. But after he left your house, you went back to sleep?

A. Correct.

Q. You didn't call the police?

A. No.

Q. Instead, the next morning, you text your former husband, "Are we going to the courthouse?" Is that correct?

A. Yes.

Q. And you never told that to Lieutenant Colonel (b)(6), (b)(7)c

A. I don't recall.

Q. Let's talk about your divorce petition, all right. In your divorce petition, you said that Michael showed up without prior knowledge, right? He showed up --

A. Yes.

Q. -- at your house --

A. He was not supposed to --

Q. -- on 16th September without prior knowledge?

A. He was not -- he was not supposed to come to my house, correct.

Q. And -- and -- and (b)(6), (b)(7)c never texted you that they were coming over to your house?

A. She had text me when he had already left and said he's coming over, I believe.

Q. So -- so you knew he was coming over?

A. I didn't -- no, he was not supposed to come over. I said, no -- I was -- I believe I was talking with her when he came through the window.

Q. All right. Then --

A. And she then followed. And she was there as well. But she couldn't get in because he locked the door.

Q. Okay.

A. The garage door and --

Q. So -- so it's your testimony that she was with him?

A. At one point or another, as I --

Q. She -- she walked --

A. I don't recall the direct details.

Q. Right. She walked --

A. I do not believe that she walked with him, I believe she came after him.

Q. Right. So when -- when Michael was in the house with you, she was outside in the yard, correct?

A. I believe the first time she was trying to get in the house

--

Q. She was try --

A. -- in my backyard, correct.

Q. And you said -- you keep saying --

A. But the doors were locked, he locked the doors.

Q. And you keep saying, "You believe." You believe that she was trying to get in, what gives you that belief?

A. I -- as it -- again, I said, I -- I don't recall the dir -- exact details of the conversations with (b)(6), (b)(7)c or the events because there were two of them back to back. And, yes, I was fearful. I had four little kids in my house and my mind was not exactly clear on the exact details of these conversations.

As I recall it, it was that he was over at the house as he had signed something that he -- or they had written up something, apparently, that he wanted me to sign. And I said, he's not -- he cannot come over here. The doors were locked. He came through the window. He did present some handwritten piece of paper that he wanted me to sign. And I said I wasn't going to sign anything and he had said, then lets meet at the courthouse tomorrow.

At that point, I thought that he was leaving for the night. I did still have my four children at the house and I was scared, I was terrified, I didn't know what he was capable of doing if I pulled my phone out and called 911. I did wait until the following morning. But as far as every detail of the conversations that were had 19, 20

months ago, I don't re -- recollect the exact details of those conversations.

Q. And -- and --

A. I don't have that documentation in front of me.

Q. Yes, ma'am. And so this is the first time that you're providing a statement in which you agreed that Captain Bergey came over to your house with a visitation schedule, correct?

A. I -- again, I don't remember what was on that document.

Q. Okay. You don't remember what was on the document. But you know what -- whatever was on that document made you all go to the courthouse the next day. Cor -- is that fair assessment?

A. We -- I had agreed to go to the courthouse to settle, yes, whatever was on that document.

Q. Okay. And then --

A. Because I wanted him to leave the house. I didn't want him to come back.

Q. Okay. And this is the first time that you mentioned that, correct?

A. I -- I don't -- I'm -- I don't recall. I don't remember what was written in that report.

Q. Since -- since September 16th of 2019, you made numerous statements, correct?

A. Yes.

Q. You've spoken to the Saint Tammany Sheriff's Office.

A. Yes.

Q. You didn't tell them that you all were talking about a visitation schedule; is that right?

A. I don't believe so.

Q. You didn't tell that to Lieutenant Colonel (b)(6), (b)(7)c?

A. He -- the bottom line was that he came into the house against a protective order, no matter what his intentions are or were for that evening for coming in through the bathroom window. I don't -- I didn't really care what he was coming to discuss, to be quite honest. I wanted him out of the house and I wanted to -- to feel safe.

Q. Ms. -- Ms. Bergey?

A. And I wasn't --

Q. Ms. Bergey, the question was, you didn't tell that to the Lieutenant Colonel (b)(6), (b)(7)c correct?

A. I -- if it's not in the documents then no, I didn't. I told him what had happened that night. And if I didn't tell him what was on the document, I didn't tell him what was on the document. I don't recall. I don't have the statement in front of me. As I said, I'm -- I'm not prepared for this so, no.

Q. In -- in your --

A. My answer is no.

Q. In your divorce petition -- we'll move on from that. In your divorce petition, you said that he broke into the home and he reeked of alcohol, correct?

A. The second time he came in, yes.

Q. And the first time you said he came in you said he reeked of alcohol. That was in your divorce petition.

A. Well, it was in both of them then.

Q. So now --

A. Yes.

Q. So in both of them he reeked of alcohol, correct?

A. Yes.

Q. And being that he was at (b)(6), (b)(7)c house prior to coming over, it's your testimony that he reeked of alcohol?

A. Yes.

Q. Under -- understanding that you're under oath and understand that Jeanne's going to testify, it's your testimony that he reeked of alcohol?

A. Yes. But I don't know where he was before (b)(6), (b)(7)c house.

Q. And I --

A. I'm not saying he was drinking at (b)(6), (b)(7)c house. I -- I'm saying that I smelled alcohol on him.

Q. Understood. Thank you, Ms. Bergey. In the divorce petition you also said that Michael was a very angry -- was very angry and volatile temperament, is that correct?

A. Yes.

Q. And that's --

A. Yes.

Q. That was -- and let me just backtrack apol -- that was a vague and ambiguous question. This wasn't involving 16 September,

this was just in general. You said he is very angry and has a volatile temperament, correct?

A. Correct.

Q. But then you also told -- that's in the divorce position, but then you tell Lieutenant Colonel (b)(6), (b)(7)c and this is on bate stamp 15 for the record, you tell Lieutenant Colonel (b)(6), (b)(7)c that he's normally not a very aggressive guy.

A. This was after I filed for the divorce. He became very aggressive --

Q. Okay.

A. -- and volatile.

Q. Okay. And in your divorce petition on -- this -- on 16 September, you said that he lunged at you, right?

A. Correct.

Q. That's your testimony, that he lunged at you?

A. Into the bed.

Q. But you never told that to Lieutenant Colonel (b)(6), (b)(7)c and the investigating officer, did you?

A. I don't recall.

Q. The only thing you told him was that he wanted a hug. He asked you for a hug.

A. No, he opened the -- the curtain -- or the covers of the bed and jump into the bed.

Q. Okay. So now -- now he lunged and jumped onto the bed, is that your testimony?

A. Yes.

Q. I want to talk about how Michael was acting when he came to your house that evening. And we'll talk about the second time he came. Was it -- is it safe to say that he was sad? He appeared sad to you?

A. As I stated earlier, he was up and down.

Q. Okay.

A. He was yelling at one point and I asked him to be quiet, not to wake the kids. And then he was sad at another point and crying. He was all different emotions that night.

Q. He was tired as well, right? He wanted to sleep at the house?

A. Yes.

Q. And he didn't -- he didn't want to get a divorce, correct?

A. No.

Q. And he's trying to sal -- salvage his marriage, is that accurate?

A. I wouldn't consider that a salvageable point of salvaging the marriage. I -- I don't think that's what --

Q. But you would agree that his intent was to save his marriage with you, is that accurate? Regardless if it was --

A. I don't know if I agree with that.

Q. -- successful or not, that was his intent.

A. I don't know -- I don't know that I agree that he was trying to salvage the marriage.

Q. Instead, it's your testimony, as you said earlier, that he was extremely angry?

A. Yes.

Q. Up and down, as you said.

A. Yes.

Q. Okay.

A. Our twins were little at the time. And they sleep in the room right next to ours. So our wall is shared with the twins. And I asked him numerous times to stop yelling and cussing because the babies were asleep.

Q. So he was yell -- he was cussing and yelling?

A. Yes. And he said, "This is my house and I'm going to do whatever I want."

Q. And he was cussing and yelling, Jeanne outside could have heard that, correct?

A. If she was still there at that point.

Q. Okay.

A. She wasn't there the whole time. I mean, he was there twice in one night.

Q. And -- and you know, when she wasn't -- she wasn't there?

A. She was -- she did not come. She went back home and the second time he came over, I don't remember her being there.

Q. Okay.

A. I -- I vaguely remember texting her, like, he's back, or something but I -- I -- I don't remember much after that, it was a

very emotional time for me and it was very -- it's very hard for me to relive it, I'm sorry. And it's the first time I've had to relive it and it is very difficult. It's the first --

Q. And --

A. -- time having --

Q. And --

A. -- to relive --

Q. And --

A. -- it out loud to a counsel.

Q. And I apologize for keep going back to this night, but there's something else that you just said that conflicts your statement that you gave to the Lieutenant Colonel (b)(6), (b)(7)c All right. And -- and in your statement to him, you said, that she said, that she would come over, but he locked the windows and doors so she couldn't come into the house. That's what you told Lieutenant Colonel (b)(6), (b)(7)c --

A. Correct.

Q. -- correct?

A. Correct.

Q. But previously, just a minute ago, you said that the only thing you text her was, "He's back."

A. I don't recall --

Q. You don't recall?

A. -- what I texted her. I remember being in communication with her that he was back at the house. But I don't -- I honestly

don't remember if she came back over, if she even responded, I don't remember.

Q. So you don't remember if she came and tried to get in through the door -- doors -- the window?

A. The second time I don't remember. The first time I do remember, she couldn't get in everything was locked. The second time I don't remember if she came back and tried to get in or not.

Q. So it's your testimony that the first time she came over on 16 September that she tried to get into the house?

A. That she tried to go to the laundry room door and it was locked.

Q. She tried to get through the laundry room door and it was locked. Did she try to go through a window as well, is that right?

A. I don't -- I don't remember that part.

Q. You said doors and windows?

A. She tried to get inside.

Q. She tried to go through the doors and windows.

A. Okay, then, yes. I'll stand by that. She did -- she tried to -- she attempted to get to the window as well, everything was locked.

Q. And when she testifies --

A. I -- I don't --

Q. And when she testifies today, she's going to say that she tried to get into -- get into the house?

A. Yes, the first time.

Q. Let's talk about the TRO. All right. We'll -- we'll talk about the TRO for a minute; temporary restraining order. This was issued on 12 August, correct?

A. Yes.

Q. And it was issued pursuant to the divorce petition that you filed?

A. Yes.

Q. And the date of this incident, the date that we've been talking about, of him coming into your house when you said he wasn't invited, that was 16 September?

A. Yes.

Q. And so you would agree that if a TRO was only in effect for 10 days and was filed on August 13th, that would no longer be in -- be in effect on 16 September, correct?

A. Where is the proof that it expired in 10 days?

Q. I'm sorry, what was that?

A. Where's the proof that it expired 10 days after issuing?

Q. The law.

A. Well, that's not what I was under -- that's not what I was told.

Q. And you would also agree that even if it was effective for 30 days it wouldn't have been in effect on 16 September, correct?

A. As far as the date, yes. But we -- we were set to have a hearing officer conference for the protective order and it was continued on multiple occasions. So the actual hearing was pushed

until no -- I'm sorry, October 1st, 2019. I was told by the sheriff's department and the court and my attorney that a state -- stamped, signed true copy of the divorce with the -- the TRO in it, held as strong as him being in the registry.

Q. But on 25 or 22 November, it wasn't in effect.

A. Correct.

Q. He couldn't be arrested --

A. There was no --

Q. -- then.

A. No, there was none. Until October -- after that October 1st, it ended up being dropped under the pretenses that Captain Bergey was going to rehab. There would be no need for a protective order.

Q. Let's talk about the next morning. Let's talk about 17 September, okay. Af -- you texted -- well, let me ask you this, you called the sheriff's office that morning, right?

A. Yes.

Q. And you -- you -- they told you that there was no TRO in place?

A. Incorrect.

Q. They didn't tell you that?

A. They came to the house, they looked him up in the registry, it was not listed in the registry, but because I had that signed, stamped, notarized true copy of the petition for divorce attached with the TRO that that held just as true as the registry.

Q. Okay. So the sheriff's office didn't tell you that the TRO wasn't in place?

A. They just said he wasn't in the registry.

Q. And -- and nobody told you that the TRO wasn't in place?

A. No.

Q. But you had -- would admit that you texted your neighbor Eli saying, sheriff is on the way and you say, they say there is no TRO in place again.

A. He wasn't in the registry.

Q. So --

A. Because when you call and they look it up, they -- they're supposed to report it to the registry so that when you call, the first thing they do is look up the registry and it was supposed to have been there. The judge didn't submit it to the registry. But when they arrived on scene, the TRO in hand, stamped and signed by the judge, held as a TRO.

Q. And that's what you were told?

A. Correct.

Q. But they also told you that a TRO wasn't in place?

A. They told me that it was not in the registry.

CFR: I'm going to mark this as Respondent Exhibit L.

May I approach, sir. I have one copy so I'll give it to the senior member. Handing the senior member what has been marked as Responded Exhibit L. Thank you for waiting, Ms. Bergey.

Questions by the counsel for respondent (continued):

Q. Let's talk more about this divorce petition. In the divorce petition you said, Michael refused to communicate with you for weeks on end, correct?

A. Prior to the divorce.

Q. Prior to the divorce, he refused to communicate with you for weeks on end?

A. I mean, we had as far as "communicate" that's a very broad statement. Are we talking about the divorce, like going through with the divorce?

Q. I'm just quoting you in your divorce petition.

A. I mean, the communication was terrible. So, yeah.

Q. He had --

A. We weren't able to come to a conclusion.

Q. Was the communication poor after you filed for divorce as well?

A. Yes.

Q. But he -- he asked you to go to counseling, correct?

A. Yes.

Q. You don't want to go to counseling?

A. No, but I did go.

Q. Yeah, well, you -- you all had a lot of counseling appointments, correct?

A. Yes.

Q. But you didn't show up for most of them?

A. I did show up when I was -- when I spoke to my attorney.

Q. Okay. So --

A. I also have four little kids and a single mom at the time, so there were a lot of reasons why I didn't go.

Q. Yeah. I'm going to get back to --

A. But after I was advised by the counsel to go, I did go. I was not comfortable being in the same room with Michael for a counseling session.

Q. So the question was, you refused to go to counseling, correct?

A. In the beginning. But I did go, yes. Yes. To answer your question, I refused to go and then I -- I did go after seeking counsel that I needed to be there, after a court order.

Q. Do you remember having appointments scheduled with a psych -- a psychologist, John Vogel [ph]?

A. Yes.

Q. And you didn't show up to his appointments, did you?

A. I did.

Q. You showed up to them?

A. I did go to them after. That's who they were originally with --

Q. But at --

A. -- several times with (b)(6), (b)(7)c .

Q. At some point -- at some point you quit going to them, correct?

A. We both did. I didn't go in the beginning and then we

started doing them via Zoom.

Q. Do you recall receiving a letter from him stating --

A. Yes.

Q. -- you do not -- you haven't been attending the counseling sessions?

A. Yes.

Q. And that was March of 2020, is that correct, roughly?

A. Roughly, sure. I don't -- I do remember getting the letter, but as I said -- I said, some of these dates in specific, sir, not super clear. But if you have it there then, yes.

CFR: It's going to be Respondent Exhibit M. And just for your essay, I'm submitting the letter into evidence Ms. Bergey.

WIT: That was our co-parenting counseling, it wasn't marriage counseling.

CFR: Parenting counseling, okay.

Ms. Bergey, just for your essay, the -- Captai(b)(6), (b)(7)c is reviewing the letter from (b)(6), (b)(7)c

WIT: Okay.

REC: Sir, may I approach? I'm handing the senior member what has been marked as Respondent Exhibit M.

Questions by the counsel for the respondent (continued):

Q. All right. Ms. Bergey, I want to talk about you alls communication. We were talking about communication and how he wasn't communicating much, but I want to talk about you alls communication while you thought the TRO was still in effect, okay. You would

agree -- you would agree that you all spoke, correct?

A. Yes.

Q. You would agree that you and Michael spoke?

A. Via text.

Q. Via text, you all spoke?

A. Correct.

Q. And you would agree that he still saw the kids?

A. Yes.

Q. For days-on-end he would see the kids? Multiple days in a row he'd see the kids?

A. He had visitation, yes.

Q. While the TRO was still in effect?

A. He had supervised visitation.

Q. So it was always supervised?

A. When that was in effect, yes.

Q. He never got the kids by himself?

A. Once it was in effect, I -- I don't recall --

Q. So --

A. -- from the very beginning.

Q. So you're saying that once --

A. But in --

Q. I'm sorry, I didn't mean to cut you off. But you're saying right when it was fi -- filed, when that went into effect on 12 August, you're saying any interaction after that was supervised visitation?

A. No, I'm not going to agree to that because I don't have it in front of me, I could be wrong.

Q. That's what you just testified to, correct?

A. No, I'm -- I'm saying he had -- he was ordered supervised visitation. But when I filed for the divorce and the -- and the TRO was in effect, I don't recall those first couple of weeks. Whether the TRO -- I mean, I think it should have been in effect, but I don't remember if it was just supervised visitation or not was in effect.

Q. And you -- you did admit that you all spoke via text, correct?

A. Yes.

Q. And I'm looking at a text message where you asked him, "Can you come grab(b)(6), (b)(7)c" This is on 6 September. Does that sound right?

A. Okay. Sure. Yeah.

Q. And so while the -- while the TRO as you said was in effect, that he only had supervised visitation, you were asking him to come -- to come grab(b)(6), (b)(7)c your son?

A. Yes. I don't recall the incident that I asked -- why I asked him to come get him though. That's really -- I don't know the context behind that.

Q. Ms. Bergey, I'm going to put in a text conversation between you and Michael Bergey into evidence, all right. And it starts with 5 September and stretches until 8 September, okay?

A. Okay.

Q. While the -- while the TRO was in effect, correct?

A. The TRO, correct. On the order in front to me, it says that on 12th of August he had --

Q. And -- and just --

A. -- no visitation rights at anytime.

Q. Okay.

A. So --

Q. He had no visitation on 12 August?

A. [nonverbal response].

Q. But yet you were asking him to --

A. Until further --

Q. -- come pick up --

A. -- until further order of the court.

Q. But yet you were asking him to come pick up your son on 8 September?

A. I don't have that in front of me. If the TR -- if the restraining order was -- or the custody order was still in place.

I don't have it in front of me. I can get it though.

Q. What are -- what are you referring to over there? What do you have in front of you?

A. I have my pleadings from my attorney, all the signed coppies from the court. Okay, can you ask me that question?

Q. Just --

A. Thank you.

Q. Just hang tight Ms. Bergey we're reviewing the -- the text message conversation between you and your former husband.

SMBR (b)(6), (b)(7)c So are we introducing more exhibits as part of this testimony as well during your cross-examination, Respondent?

CFR: Potentially one exhibit, sir, but I doubt it.

SMBR (b)(6), (b)(7)c You just gave me L and M, right?

CFR: Correct, sir. After this one there may be one additional one, but I would --

SMBR (b)(6), (b)(7)c : Didn't you just object to this a little while ago?

CFR: What's that, sir?

SMBR (b)(6), (b)(7)c : Didn't you just object to the recorder introducing evidence as part of testimony?

CFR: No, sir. The -- the objection was be --

SMBR (b)(6), (b)(7)c You didn't?

CFR: What's that?

SMBR (b)(6), (b)(7)c : You didn't object to that?

CFR: There's -- but for the defense, we're not abided by the same rules as the recorder does, sir. To have a fair and impartial trial, what I'm doing is stuff that -- so the -- the questions are asked, she acknowledges it, and I provide it as an exhibit. What he's doing is eliciting and curating evidence that I wasn't notified of.

This is what's called impeach. I'm impeaching her with misstatements. I'm impeaching her based on her saying.

SMBR (b)(6), (b)(7)c : I guess -- I guess what I'm getting at is you've been at this for a little over an hour now. Is there -- is there a direction you're going?

CFR: Yes, sir.

SMBR (b)(6), (b)(7)c : Okay. Can we get there a little faster?

CFR: I can, sir. This is a text conversation involving their communication while the TRO was in effect; marked as Respondent Exhibit N.

MBR2 (LtCol (b)(6), (b)(7)c): This is Lieutenant Colonel (b)(6), (b)(7)c for clarification, did you say in effect or is that still in question because I'm still unclear --

CFR: Correct, right.

MBR2 (LtCol (b)(6), (b)(7)c): -- as to or have seen any information as to whether or not that was or was not in effect.

CFR: Actually, I should provide more clarity, while she said that it was still in effect, those are the communications.

REC: Yes, sir. That's -- that's still an issue of contention.

MBR2 (LtCol (b)(6), (b)(7)c): Thank you.

CFR: All right. Ms. Bergey, I want to move along here. Just to go over the timeline of -- of when you filed for divorce, and you mentioned on direct examination that your mother was in town, is that correct?

A. She was in town that weekend.

Q. And as well as Michael's father, correct? (b)(6), (b)(7)c was in town?

A. Yes.

Q. And he was in town because Michael was having a surgery, right?

A. We told him to come early because my -- my mom had spoke to him that he needed to come early because of what was going on.

Q. Okay. And on -- on 12 August, he had the surgery, correct?

A. Yes.

Q. And the next day, 13 August, you filed your petition for divorce?

A. I filed on the 12th.

Q. I'm sorry. So the same day you filed for divorce, that he had surgery?

A. Yes.

Q. And he was served on the 13th, correct?

A. Yes.

Q. And as we already discussed, part of the terms of that petition was he couldn't come back to the house, correct?

A. Yes.

Q. While he was having a serious neck surgery?

A. Yes.

Q. Let's talk about what happened on 25 November -- or excuse me, 22 November, that you told the recorder. On the recorder, you said that you saw him at The Wine Market, correct?

A. I didn't know it was him --

Q. At the time, you didn't know it was him?

A. -- as I stated earlier.

Q. Okay. You didn't know, it was him. And as you got out, you were on a date, correct?

A. Yes.

Q. And as you got out the truck of this date, you testified that you saw someone coming at -- after you -- coming toward you?

A. No, I testified that I saw them. He had -- I've been told he was going to come towards me.

Q. Okay.

A. But he -- Staff Sergeant (b)(6), (b)(7)c and Staff Sergeant (b)(6), (b)(7)c pulled him down to the ground and were having an altercation. But I didn't know that it was them at the time.

Q. Okay. So he didn't come running after you? He didn't come --

A. To my rec -- to my knowledge, no. He -- I was told that he was running after me and they ran across and then tackled him in the parking lot.

Q. So in your statement to Lieutenant Colonel (b)(6), (b)(7)c right, the one that you saw, the one that you were able to sign afterwards, correct?

A. Yes.

Q. You told Lieutenant Colonel (b)(6) that he came running after you.

A. He came running from the patio, as I was told. They saw me on -- on the patio while they were outside, and he came running and Lieutenant -- I'm sorry, Staff Sergeant (b)(6), (b)(7)c and Staff Sergeant (b)(6) took him down.

Q. And you didn't know that was your husband?

A. No.

Q. And so being that you didn't know that your husband, is it fair to say he didn't get too close to you all? He didn't get too close to the truck?

A. No.

Q. And you didn't hear his voice?

A. No.

Q. And so the government has to prove that he communicated to you, it's fair to say that -- and it's your testimony that you didn't hear his voice, is that correct?

A. Correct. I heard yelling --

Q. And you -- and you --

A. I drove right past them.

Q. And you told Saint Tammany Sheriff's Office, that he knew you were at The Wine Market because he was tracking you, correct? He was tracking you with OnStar?

A. He knew I worked there. I didn't have my vehicle that night with OnStar in it.

Q. You didn't tell the Saint Tammany Sheriff's Office that he knew you were out there -- he knew you were at The Wine Market because he was tracking you with OnStar? You didn't tell them that?

A. I did but he -- he -- I did tell them that. But he didn't know that night that I was -- he knew I was working there because he had known that that and the other place of my employment. He knew --

Q. Okay.

A. -- because of my OnStar in my car.

Q. Okay. The question was, did you tell Saint Tammany Sheriff's Office that he knew that you were at The Wine Market because he was tracking you with OnStar, and the answer to that --

A. Yes.

Q. -- was, yes, correct? Is that a yes?

A. Yes.

Q. Okay. And let's talk about why he -- and afterwards he came to your house, correct? He came and met you at your house on 22 November?

A. Yes.

Q. That's what you told the government, correct? I want to talk --

A. Yes.

Q. -- about why -- why he came over to your house, all right. You -- you told Lieutenant Colonel (b)(6), (b)(7)(c) that morning that your son was in urgent care, correct?

A. That my what?

Q. Your son, he was in urgent care?

A. Yes.

Q. But that day, Captain Bergey had the kids, correct?

A. I don't have any of this in front of me. If I told them that then -- and it's on record then, yes, I -- I don't have any --

Q. I'm --

A. -- of this in front --

Q. I'm --

A. -- of me.

Q. I want you to testify as to what you recall.

A. Exactly, I don't recall which son and what it was, I have four children.

Q. You don't recall your aunt was the one who was actually and the hospital that day?

A. Yes, correct. My aunt was at urgent care. Okay. Yes.

Q. Because she --

A. Now I remember.

Q. -- had pneumonia, correct?

A. Yes.

Q. And you're at The Wine Market, correct?

A. Yes.

Q. On a date?

A. I was -- no, I was not on a date at The Wine Market. I worked at The Wine Market. I left work after I finished and went out to dinner.

Q. Understood. While your kids were at home?

A. Yes.

Q. With your aunt who has pneumonia?

A. And my uncle.

Q. And Captain Bergey was worried?

A. Okay.

Q. Right, and so he went over to the house, correct?

A. No. In my opinion, that's not the reason he went to the house.

Q. That --

A. He was out drinking.

Q. He -- he came to the house, right?

A. After work -- after the fight, yes.

Q. Okay. And I want to talk about what transpired at the house. (b)(6), (b)(7)c was at the house with you, correct?

A. She came over when I got home, yes.

Q. And you testified that he came running at you?

A. Yes.

Q. He came running up the driveway at you, was your testimony?
And you tried --

A. I heard his -- go ahead.

Q. And you said that he tried to open the door?

A. Yes.

Q. And (b)(6), (b)(7)c as there?

A. Yes.

Q. And (b)(6), (b)(7)c would be able to verify if he, in fact, ran up the driveway and opened the door, correct?

A. She was in between him and me and the door. I closed the door and locked it, she was in the garage.

Q. And you also --

A. But then he went to the back door and tried to open that door.

Q. And -- and if that's what happened, (b)(6), (b)(7)c would be able to verify that, correct?

A. Yes.

Q. And you also said that there was surveillance cameras outside.

A. Yes.

Q. Right. And so if this happened surveillance could have captured that?

A. Like, we installed four new ones that were not working. I had a front door one and a back door one.

Q. So at the time, you didn't have any surveillance cameras up?

A. Yes, I did.

Q. You did or you did not?

A. I did, in the back yard. At the back patio door where he was coming in.

Q. Exactly. So if he, in fact, tried to enter the back door patio, your surveillance cameras would have captured that?

A. Yes.

Q. In fact, you told Lieutenant Colonel (b)(6), (b)(7)c that you actually had the photos on your surveillance camera.

A. Yes.

Q. But you never provided those, correct?

A. No. It's not the video motion it's just pictures of him in the backyard near my patio door.

Q. Let me talk about why you changed your mind to testify

again, okay. And -- and as we already discussed, you have a very important hearing coming up, correct? A very important trial.

Would you agree to that?

A. Yes.

Q. And as we say, this is -- this is a trial to determine whether not your former husband gets custody of the children.

A. Yes.

Q. And -- and you understand that there's a lot of evidence against you, is that fair?

A. Yes.

Q. You understand that a lot of people are testifying against you?

A. Yes.

Q. Including your aunt.

A. Yes.

Q. Including your former friend (b)(6), (b)(7)c

A. Yes.

Q. And they're testifying about your ability to be a mother.

A. Yes.

Q. And based on the fact that there's this overwhelming amount of testimony against you, you decided to testify.

A. It really had -- my decision had nothing to do with my other court cases.

Q. And so do you -- you would agree that you have an incentive in the outcome of today's board, correct?

A. I what?

Q. You have an incentive. If -- if the board substantiates misconduct that helps your case, correct?

A. For custody?

Q. Correct.

A. Yeah. I mean, I guess it can. I -- I didn't put the two together being the same -- in the same at all.

Q. You never thought about that?

A. No, I'm -- I honestly did not think that whatever outcome this has anything to do with my ability to parent my ki -- my children.

Q. You never thought that it would affect the -- the custody arrangement?

A. No.

Q. That the board's decision could be considered by the Court?

A. I didn't think about it like that, no.

Q. A few more questions for you, Ms. Bergey. You know Michael's older brother recently passed?

A. Yes.

Q. And his funeral is this weekend, correct?

A. Yes.

Q. And you understand that he asked to have the children present at the funeral, right? He asked you?

A. Yes.

Q. And you're not allowing his children to come to their

uncle's funeral?

A. No.

CFR: Sir, may I have one moment, please.

SMBR (b)(6), (b)(7)c : You -- you've had many moments. What do you need a moment for?

CFR: To consult with my client, sir.

SMBR (b)(6), (b)(7)c): You got 30 seconds. Time's up.

CFR: Nothing further, sir, at this time.

SMBR (b)(6), (b)(7)c Okay. So one, Ms. Lauren thanks for -- what?

REC: Sir, at this point the -- the members have -- have a chance to ask questions and then I will have a very short redirect.

SMBR (b)(6), (b)(7)c): Yeah. That's why --

REC: Sorry. Sorry.

SMBR (b)(6), (b)(7)c : That's where I was going. Thank you.

Ms. Lauren, thanks for your time today that's on the phone for a little over 2 hours, with 4 kids, I can't imagine that. I have 2 kids at home and can't stay on the phone for 5 minutes. So I appreciate this. So what we'll do is --

WIT: Yes, sir.

SMBR (b)(6), (b)(7)c : -- there's three members, were going to go through and each member is going to ask you questions based on your testimony and how it pertains to the board of inquiry. So go -- go ahead.

WIT: Yes, sir. It's kind of hard to hear you.

SMBR (b)(6), (b)(7)c : Take your mask off.

MBR2 (LtCol(b)(6), (b)(7)c Lauren, this is Lieutenant Colonel(b)(6), (b)(7)c can you hear me?

WIT: It's -- it's very muffled. I can hear you, but it's not very clear.

MBR2 (LtCol(b)(6), (b)(7)c: Should we move up towards the phone or --

SMBR ((b)(6), (b)(7)c : Yeah. Whatever. Do you have a question for her? Okay.

EXAMINATION BY THE MEMBERS

Questions by the Lieutenant Colonel(b)(6), (b)(7)c

Q. Lauren, this Lieutenant Colonel(b)(6), (b)(7)c Are you able to hear me now?

A. Yes, sir, that's better.

Q. Thank you again for your time. Just very, very few questions with regards --

A. Okay.

Q. -- to some of the statements that have been made, some of the evidence has been put before us. Given that we are seeing photos with date stamps of these children with Captain Bergey during the time that there's a temporary restraining order, can you -- can you elaborate on how that happens? Or at least can you agree or concede or give me your opinion as to the fact that that's -- that two plus two doesn't equal four.

A. Yes, sir. I understand what you're saying. The temporary restraining order was including the children as well. We did not have a court date set yet as to the visitation and what was necessarily

recorded in the court or not, or ordered under the court aside from that I had temporary sole custody until we had established who was going to be supervised.

It could the kid -- the kids are just as much Michael's as they are mine. So I -- at the time I must have felt like they needed to see their father and he needed to see them. Again, I -- I apologize for not having exact recollection of these dates --

Q. No.

A. -- instead of having this information in front of me.

Q. No -- no need to apologize. I -- I don't have it in front of me either as I've walked a way from my notes. However, I do remember the temporary restraining order state that Captain Michael Bergey was not to have any contact and a lot of other details with you and/or the children whatsoever, quote, end quote.

And I just I'm -- I'm hopeful that you understand that -- here, let me -- let me be brief if that's what it says.

A. Yes.

Q. And whether or not the date is still in question, which it is.

A. Okay.

Q. Can you agree that in the middle of that time where no contact whatsoever, whether it is or it's not, that Captain Bergey was sending you pictures of the neck brace via text message with children in a pool?

A. Yes, sir.

Q. Okay.

A. I believe his dad was here with them, no?

Q. I -- I'm just --

A. Maybe not that time.

Q. I'm trying -- I'm trying to ensure that -- from your perspective I -- from -- that you understand that from my perspective, this doesn't add up.

A. Correct.

Q. And given --

A. I'm trying to remember if his father was in town which was where I agreed to let the kids go with them.

Q. Okay.

A. I don't remember.

Q. Okay.

A. But, yes, I understand what you're saying. But, I did, in fact, allow visitation under the restraining order.

Q. Is there a -- a reason why? I mean -- no, pause. Break. Separate question. Is there a reason precluding you from authorizing the children to be present for family member's funeral this weekend?

A. Yes, I believe they are too young. The twins, we've lived here longer than they've been -- they were born here. So they don't really have any relation to their uncle. I know they see them on holidays and whatnot, but I believe they're too young to attend a funeral at this time. Especially for someone that they don't particularly have a close relationship with.

Q. Thank you. Have you -- you had mentioned the name (b)(6), (b)(7)c and you had mentioned other names of, maybe not boyfriends, but some boyfriends during your testimony, is that correct?

A. Yes.

Q. Have your children met any of these adults?

A. They know -- not (b)(6), (b)(7)c no. They know (b)(6), (b)(7)c my fiancée.

Q. Thank you for that clarification.

The last question I have is with regards to your thoughts on -- and again, trying to be empathetic from my perspective, being afforded all this information today and prior to hearing the testimony of family members or former family members or people that formerly were stating things to your support and now are going against it, can you -- can you just opine. Because I haven't heard any of it, but I'm about to and I'm curious as to what your thoughts are, why a substantial amount of witnesses are going to be put before us that is not favorable to you. I'm a -- assuming --

A. I wish I had an answer for you for that, but I don't know why they would turn so abruptly and what the reason was. Nobody -- none of my other family members can understand either. So I wish I had an answer, but I don't speak to them. I haven't clarified with them why they turned. I have -- don't have an answer for that.

Q. Okay. I retract my statement of it being my last question. I do have two more. One was with regards to communication you just brought up, you don't communicate with them. An exhibit that was presented to us is that you chose not to go to counseling and the

counselors provided that -- that letter.

Can you -- can you talk about why -- why you're not -- why -- or why -- I mean, why is communication an issue and not being present seems to be not helping the situation?

A. That was co-parenting counseling, not marital or post-marital or anything like that. I was not comfortable being in the same room with Michael, as I discussed earlier, and I did end up going to the sessions via Zoom.

Q. Understand. With regards to the child custody hearing coming up, can you opine on that? So that again I have your understanding as we proceed through this board. Is this joint custody, physical custody, full, 50 percent? Can you -- can you elaborate just for my own understanding from your perspective, what -- what April 26 custody hearing is about?

A. Yes, sir. Michael has filed 5 ex partes for the custody in the last year. The hearing officer denied all but the most recent contempts in custody, rearrangements. He is seeking full custody and to move the children to California.

So we -- because he denied it, we go to -- or he objected the denial of the hearing officer conference, we go to trial that will set the final custody.

Q. What is the current custody arrangement from your perspective?

A. We had -- we had two separate arrangements, whether he stayed here in state or whether he moved back to California. So it's

every other year, Christmas and Thanksgiving, because we have two spring breaks here with Mardi Gras. It's -- we each get one per year and then five-and-a-half weeks during the summer, plus any other reasonable visitation. If he comes into town, I let him take the kids usually every time --

Q. Is there --

A. -- I let them. I'm just not comfortable with them going to a funeral in California.

Q. Is there any -- any concerns about safety with the children when you go into this custody hearing?

A. No.

MBR2 (LtCol(b)(6), (b)(7)c): Okay. That's all I have.

Questions by (b)(6), (b)(7)c

Q. All right. Ms. Lauren, can you hear me?

A. Yes, sir.

Q. All right, Colonel (b)(6), (b)(7)c, I'm the senior member of the board. Again, appreciate your -- your time today, your comments. Only thing I really have for you is a question regarding your husband's alleged drug use.

A. Yes, sir.

Q. Did you at any time -- previous to the divorce, did you at any time encourage him to seek counseling or get help?

A. Yes, sir. After he had an overdose on an airplane in February of 2016.

SMBR (b)(6), (b)(7)c): Okay. I have other questions, but I don't

think they pertain to the case at hand. So thanks for your time, I'm going to turn it back over to the recorder.

WIT: Thank you, sir.

REC: Okay. Thank you, sir. And Lieutenant Colonel (b)(6), (b)(7)c you don't have any questions?

SMBR (b)(6), (b)(7)c Nope, he doesn't.

REC: All right. Thank you, sir. Sir, may I approach?
Approach the well. Thank you, sir.

REDIRECT EXAMINATION

Questions by the recorder:

Q. Ma'am, this is Captain (b)(6), (b)(7)c again. I just had a -- a couple questions that will allow you to kind of clarify some things.

First, I just want to talk about -- and this one is really quick because it's -- it's the first time I'm seeing some of the exhibits that the counsel for the respondent is presenting, which is fine. But I -- I did just want to -- for the record, you didn't have any of those in front of you? You didn't see them?

A. No, sir.

Q. All right.

A. I just had my -- my court pleadings from my attorney in front of me. I didn't have any of the evidence in front of me.

Q. Okay. So with respect to, you know, counsel for respondent's questions, you know, citing particular text messages or things like that, you know, you just had to go off of whatever -- whatever you remember, right?

A. Yes, sir. But without prior or post context, it's a little bit hard to recall the -- the details.

Q. And --

A. Or follow up messages or responses between him and I. Aside from just the one that was brought up --

Q. And --

A. -- because I don't have them in front of me.

Q. And given the fact that, you know, you couldn't see them and it was unclear, I guess, which ones he was talking about, given the fact that you're over the phone, you can't speak to the authenticity of any of those exhibits or really the context, right? Outside of what you remember.

A. No, sir, not without them in front of me.

Q. All right. Thank you. Now I want to talk, just because it became an issue outside of your testimony, but also on -- on direct.

Do you remember when -- when you and I first talked?

A. Yes, sir.

Q. Do you -- do you remember roughly when that was? Was it like --

A. It's been months.

Q. Okay. January, February?

A. January, yeah. It was in January.

Q. Okay. During that initial phone call, approximately how long do you think it was?

A. How long did we talk for?

Q. Yeah.

A. A good amount of time.

Q. Okay. And then at the end of that conversation or it may have actually been at the beginning and the end, did I ask you to -- if you'd be willing to testify?

A. Yes.

Q. Okay. At that time, what did you say?

A. I believe I said I wasn't entirely comfortable, but if I needed to I would.

Q. Okay.

A. Or something along those lines, but I wasn't comfortable. I did not want to be in person at the board.

Q. And then from my memory, you used a term talking about, kind of, being the -- the last -- you -- you don't want to be the person responsible for getting him kicked out. Do you remember saying something like that?

A. Yes, sir.

Q. Okay. Can you just expand on that for the members?

A. Yes. But it's -- in terms of him losing his -- I -- I don't want to be the reason he loses all this. It's -- it is hard you know, I understand that. But I also do feel like his behavior through all of this has not been -- has -- has become -- I'm sorry. I'm getting my words twisted, unbecoming of an officer in the Marine Corps.

Q. And then --

A. I do feel like that. I expressed that to you when we first

spoke.

Q. Okay. And then did you say something to the extent of you -- you kind of -- kind of felt bad given how much the Marine Corps meant to him?

A. Yes, sir.

Q. Okay. And then fast forward to this week. What -- what -- when I called you this week, what -- what did I call you to clarify? Do you remember?

A. A few things. The TRO, I believe.

Q. Yeah.

A. The people at --

Q. Was it the government travel charge card?

A. Yes, correct.

Q. Okay. And at -- at that point, did I indicate to you who -- who I was thinking about calling as a witness?

A. Yes, sir.

Q. Okay. Who was that?

A. (b)(6), (b)(7)c

Q. Okay. And then did I, again, ask you if you were sure you didn't want to testify? This is earlier this week, like Monday.

A. Yes.

Q. Okay. And at that point, did you still say you didn't want to testify?

A. I still said I wasn't comfortable, but if you needed me to do it, then I would. Like if it was necessary so that the evidence

could be painted a picture with me, like, the -- the person, the victim.

Q. Okay. And then -- I think I actually messed up -- messed up two different instances. But, yeah, so that's where you said the -- that and then yesterday when I -- when I called you --

A. -- to clarify.

Q. Yeah. What -- who -- who made it -- made the request -- or who had the idea that you testify, was it me or you? Like, who wanted testimony? Did you want to testify?

A. No.

Q. Okay. And then why did you ultimately end up testifying?

A. After you and I spoke, I felt that based on my previous incidents with the court, it does paint a better picture when you have a witness or a victim involved behind all of the paperwork.

Q. And, in fact, that's -- that's almost verbatim what I told you, right?

A. Correct.

Q. Okay. And then because I requested it, then you -- you agreed, right?

A. Yes, sir.

Q. Okay.

A. Unaware that it was going to be an entire day.

Q. Yeah. No, I'm sorry. And I -- how long did I tell you this would last?

A. 15 to 30 minutes.

Q. Yeah. Now in terms of the -- the communications between Captain Bergey and yourself, and then the temporary restraining order, have you, yourself, ever issued a temporary restraining order?

A. I did go to court to try to get another one in state. But I didn't have enough substantial evidence --

Q. So to get that --

A. -- to get another one.

Q. Sorry. So to get that temporary restraining order, did you have -- did you have to make a request or did you, yourself, issue it?

A. I had to make a request.

Q. Yeah. Because who issues temporary restraining orders?

A. The court.

Q. Yeah. Do you have the authority to remove a temporary restraining order?

A. Not without the court, no.

Q. Okay. So if you signed a document and you said I revoke this temporary restraining order, would that have any sort of effect?

A. Not without a judge's signature --

Q. Yeah.

A. -- or notarized or -- I think it would still have to go to the judge.

Q. Okay. So --

A. I don't have the authority to revoke it.

Q. So with -- with those communications, assuming, you know -- I know that's -- it's still a -- an issue for the fact finders,

assuming that the temporary restraining order was still in effect, if you -- if you were tested -- or if you were text messaging or contacting Captain Bergey, he was still violating that temporary restraining order, right?

A. Yes.

Q. Okay. Now --

A. Even if I had invited him over to the house, he would still be in violation of the -- the restraining order.

Q. Yeah, because it comes from the judge.

A. Yes.

Q. Now I want to ask you about the -- the court proceedings, because you -- you referenced it. Your most recent court proceeding, what -- I know when Lieutenant Colonel (b)(6), (b)(7)(c) was asking you questions you kind of talked about it. What -- what was the -- the goal of that proceeding? Who brought the allegation and what was the result?

A. Captain Bergey.

Q. Okay. He -- he brought that request --

A. -- to the court. Yes, sir.

Q. And what was ultimately the result?

A. They were all denied.

Q. Okay. What is the next court date?

A. April 26.

Q. Okay. And what is that ultimately -- what instant -- instance is that court date in reference to? Was it --

A. That's the one.

Q. -- the coming through the window?

A. No, no. That has nothing to do with -- this is just child custody.

Q. Okay. What about the criminal --

A. We do have more.

Q. I'm sorry.

A. The criminal is June 21st.

Q. Okay. And what allegation is that involving?

A. The breaking of the protective order.

Q. Okay. So that was the coming to the window?

A. September, yes.

REC: All right. Ma'am, appreciate you taking the time.

I don't have anymore questions, but I -- I definitely appreciate it.

WIT: Thank you, sir.

REC: Thank you so much.

WIT: Am I done or --

RECROSS-EXAMINATION

Questions by the counsel for the respondent:

Q. No, not quite. Ms. Bergey. A few more questions from counsel for the respondent. You told Lieutenant Colonel(b)(6), (b)(7)c this is in some regards to the funeral, you said that your twins were too young to attend the funeral, correct?

A. In my opinion, yes.

Q. Right, and -- and because they don't have a relationship

with their uncle, right?

A. I mean, none of kids really do. We've lived here for 4 years.

Q. Okay, but -- but --

A. And they were little when we moved here so the relationship they could have had with their uncle prior was when they were little.

Q. My -- my question was the two twins, the twins, you said didn't have a relationship with --

A. Yes, sir.

Q. -- their uncle, right? But Capt --

A. Only then --

Q. Captain Bergey asked for the two older boys to come to the funeral.

A. That was not the original request it was all the kids. And he just recently requested the two older boys.

Q. And the older boys, that's (b)(6), (b)(7)c , correct?

A. Yes, sir.

Q. And they're 8 and 5?

A. Yes, sir.

Q. And he asked for them to attend the funeral?

A. Yes, sir.

Q. And you said, no, they can't attend the funeral?

A. Yes, sir.

Q. All right. And in regards to your (b)(6), (b)(7)c you -- you described, this is on -- you described her as having mental

conditions, correct?

A. Yes, sir.

Q. PTSD?

A. Yes.

Q. Depression?

A. Yes.

Q. She's going to get evaluated by -- by a psychologist -- psychiatrist?

A. She is or she has been?

Q. She has been.

A. Yes.

Q. All right. And you still allow her to babysit your children?

A. Yes.

MBR2 (LtCol)(b)(6), (b)(7)c: Are we allowed to ask more questions?

REC: Yes, sir.

EXAMINATION BY THE MEMBERS

Questions by Lieutenant Colonel (b)(6), (b)(7)c

Q. I understand that in some cases -- and I'm not a lawyer, for purposes of this board. In fact finding that marriage separation agreements do stipulate or some law might stipulate that two adults will have an order in place, but if two adults agree, that supersedes the order. Does -- do -- is there -- first question would be is a marriage separation agreement in place? I don't --

CFR: The -- the divorce has been finalized, sir.

MBR2 (LtCol)(b)(6), (b)(7)c: I -- I guess I'm going back to the September 6th -- September 16th -- September -- photos of September 6th, incident on September 16th, we all understand that there's, you know, whether it was in effect or not is up for question. However, the government presented or posed a question as to whether or not the judge is the authority. And in some cases, that's not the case.

So I'm just trying to understand whether we know if, in fact, the order that states, "No contact whatsoever," was being violated by both sides, one side, or if a marriage separation agreement exists whereby both parents can agree to -- in a -- in essence, you know, go around the order.

And again, this is a sincere question. I'm just wondering if -- if, in fact, the judge order was being violated by both or if they're was a separate agreement which we have not been made privy to that allowed both to go around that temporary restraining order?

REC: Sir, sorry. Was that --

MBR2 (b)(6), (b)(7)c : I'm just asking for anybody to help here.

REC: Well, sir, again, given the fact we don't have, you know, a particular expert in Louisiana law here so the -- the way that temporary restraining orders generally work is that the judge issues it, it's between the judge and the individual who's being restricted. It becomes -- there are sometimes issues where one spouse will think that they can lift the restraining order, they can't actually do it.

How -- however, I'm not an attorney in Louisiana so Louisiana may be completely different, but pretty much everywhere else, yes.

CFR: Sir. I'm -- I'm an attorney in Louisiana and I still don't know that answer for you. I'm not sure if it's binding on both parties or it's only binding on one party.

MBR2 (LtCol (b)(6), (b)(7)c And the -- the base of my question is there's multiple restraining orders. I think I counted nine or ten, or dismissals of some which have the details of who requested it, when it started, when it ended, but for purposes of the restraining order issued on August 13th, 2019, that detail does not exist. So of all of the restraining orders, the one in question and/or my question of whether or not there is a detail associated with it is -- that's what I'm asking. So it just does -- it doesn't exist at this point. I'll request it at the appropriate time.

LA: So -- the procedural clarification is in order. A member of the board has called for additional evidence and the recorder has the burden of proof.

Do you have any other questions for the witness based on that?

REC: No, sir.

LA: Okay. And just one thing, in order to protect the record, gentleman. I just want to make sure Captain Bergey, the right to examine witnesses is the personal right to you. You may do so through counsel. So if you have additional questions that you want to ask this witness please let your counsel know. And Captain (b)(6), (b)(7)c I expect you to speak up if you have additional questions.

MBR2 (LtCol (b)(6), (b)(7)c That's all the questions I have.

CFR: Thank you, sir. None at this time.

REC: Thank you, sir. If -- if there are no other questions I will --

SMBR (b)(6), (b)(7)c : No further questions.

REC: Thank you. Ma'am, this is Captain (b)(6), (b)(7)c again. I -- I will just ask you: Please do not discuss your testimony with anyone outside of this hearing until the board is closed. If anyone does approach you, please let me or Captain (b)(6), (b)(7)c know.

And then with that I will end the call. Thank you very much.

WIT: Thank you, sir. All of you gentleman. Have a good day.

REC: You too bye.

WIT: Okay.

[The witness was warned and the telephonic call was disconnected.]

[Lauren M. Bergey's testimony ended at 1713, 15 April 2021.]

[END OF PAGE]

ATTESTING-CERTIFICATE

I am a qualified and certified court reporter in the United States Marine Corps, sworn in accordance with Article 42(a) of the UCMJ, and assigned to the Legal Services Support Section National Capital Region, Quantico, Virginia. I affirm this transcript is a true and accurate verbatim account of the testimony of Lauren M. Bergey during the board of inquiry of Captain Michael E. Bergey, U.S. Marine Corps, held at New Orleans, Louisiana, on 15 April 2021.

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Corporal, USMC
Court Reporter